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# P R O C E E D I N G S

of the

Select Committee of the Ontario  
Legislature appointed to enquire  
into matters concerning certain  
Divisions of the Department of  
Highways.

MR. A. KELSO ROBERTS, Q.C., CHAIRMAN

PRESIDING.

MR. V. J. JOHNSON, SECRETARY.

° °

VOLUME XXV

Toronto, Ontario.

Wednesday, September 8th, 1954.

R. C. Sturgeon,  
Official Reporter,  
Parliament Buildings,  
Toronto, Ontario.











Mr. R. A. Hughes, Q.C., For Hon. Mr. Doucett

Mr. E. A. Richardson, Q.C., For McFarland  
Construction Company and  
Mr. McFarland.

Mr. Peter Wright, Q.C., For the Hon. Mr. Winters,  
Ottawa.

|                       |   |                          |
|-----------------------|---|--------------------------|
| Mr. Charles Appelby,  | ) |                          |
|                       | ) |                          |
| Mr. H. J. McFarland,  | ) | Appearing by virtue of   |
|                       | ) |                          |
| Mr. Clarence McHugh,  | ) | Speaker's warrants, duly |
|                       | ) |                          |
| Mr. Leon Kossar,      | ) | issued and served.       |
|                       | ) |                          |
| Mr. Joseph Zakrajsek, | ) |                          |
|                       | ) |                          |
| Mr. Stanley Valant,   | ) |                          |
|                       | ) |                          |
| Mr. Edward T. Wride,  | ) |                          |

Mr. H. A. Cotnam, F.C.A., Provincial Auditor.

Mr. George Spence, Assistant Provincial  
Auditor.

Hon. G. H. Doucett, Minister, Department of  
Highways.

Mr. J. D. Millar, Deputy Minister,  
Department of Public Works

Mr. M. A. Elson, Deputy Minister,  
Department of Highways.

Mr. Fred Duncan, For the Liberal Party.

And other representatives of the Department.

- - - - -

THE CHAIRMAN: Gentlemen, I will call the  
meeting to order, as I think we have reached the  
appointed time.

I will ask the Secretary to read the notice





calling the meeting, at this time.

MR. V. J. JOHNSTON (Secretary): This notice was addressed to all members of the Committee, and reads as follows:

"Dear Sir:

Please take notice that a special meeting of the Select Committee of the Legislature appointed to study and investigate the Department of Highways will be held in Committee Room No. 3, Parliament Buildings, Toronto, on Wednesday, the 8th day of September, 1954, at the hour of 10:30 o'clock in the forenoon, E.D.S.T., for the purpose of dealing with the charge made by Mr. Albert Wren, a member of this Committee, that the Honourable, the Minister of Highways, did have certain men working on his farm, being employees of a contractor, for which work he did not pay, contrary to the Minister's evidence before the Committee at the sitting of the 30th day of June, 1954.

Yours very truly,

(signed) 'A. KELSO ROBERTS,'

Chairman."

THE CHAIRMAN: That notice was sent to all members of the Committee.



I would ask the Secretary if he has a message he would like to pass to the members of the Committee, about the attendance of one of the members.

MR. JOHNSTON (Secretary): I received a telephone call just before coming to the meeting, from Mr. Wren, who was having some difficulty with his baggage at the Airport. He is on his way, and will be here, but will be a few minutes late.

THE CHAIRMAN: There are two orders of business with which I think we can proceed, without putting anyone at a disadvantage.

One is dealing with the minutes of the proceedings in June on the trip of the Committee from Bimiji, Minnesota, to the Head of the Lakes.

The other is, I propose to table all correspondence which has passed between Mr. Wren and myself in regard to the matter before the Committee today.

I will ask the Secretary to deal with the minutes first.

MR. JOHNSTON (Secretary): The minutes were sent out to each member, of our trip from Bimiji to Port Arthur.

MR. GRUMMETT, Q.C.: I would move they be taken as read. We have all seen them, and I do not see any necessity for the Secretary reading them again.





THE CHAIRMAN: They relate to the proceedings which are recorded in the way of minutes, taken on our trip in June. Can we give them approval holus bolus? They are set out day by day and contain certain resolutions.

MR. HERBERT: Mr. Chairman, I move they be approved.

MR. OLIVER: I will second that motion.

THE CHAIRMAN: You have heard the motion duly made and seconded. What is your pleasure?

(Motion carried unanimously).

---The minutes, as approved unanimously, are found in Volumes XIII to XIX inclusive, of the proceedings of this Committee, which will now be released for distribution, having been held awaiting formal action by the Committee and signature by the Chairman.

THE CHAIRMAN: Now, I will ask our Secretary to read, from the back forward, the correspondence and exchange of communications --

MR. OLIVER: Mr. Chairman, may I ask if it would not be better to wait until Mr. Wren is here? I think we should, Mr. Chairman.

If I may say this, the purpose of this meeting this morning is outlined by the letter just read by the Secretary, a copy of which has been sent out to all members of the Committee.





The foundation for the charge which is to be dealt with by the Committee is the responsibility of Mr. Wren as a member of this Committee, and I do not want to proceed with anything relating to it until Mr. Wren is here, because he has knowledge of what has transpired, and he has what knowledge there is of what is to transpire before the Committee here today.

I am not acquainted with the evidence to be given, nor with the affidavits which are to be presented here today, and so I do insist, if it meets with your approval, Mr. Chairman, that anything relating to the matter specifically to be discussed today, should be left until Mr. Wren arrives.

I think he has been unavoidably delayed.

THE CHAIRMAN: He must have been running pretty close to the line, in a matter of this importance.

MR. GRUMMETT, Q.C.: He could not control the flight of the aeroplane.

HON. MR. PORTER: He could have come on an earlier flight.

MR. OLIVER: The elements surely are not under the control of the member.

HON. MR. PORTER: This is not beyond his control at all. He arrived at a time when he is barely able to get here. It is not the elements which are in



question; he says he has to wait for his baggage. I do not know if that is of any importance, unless he has the affidavits in it.

MR. GRUMMETT, Q.C.: It might be very important.

HON. MR. PORTER: I understand the Leader of the Opposition (Mr. Oliver) is not aware of the contents of these affidavits?

MR. OLIVER: There need be no doubt in anyone's mind in respect to that. I might as well make it clear now as at any time. I am in the habit of doing that, as the hon. Attorney-General (Mr. Porter) knows.

When Mr. Wren made these charges in the Press, the Press called me for comments, and I made my comment crystal clear, as I thought, saying, in the first place, that Mr. Wren was doing this on his own responsibility, and pursuant to a right he had as a member of this Committee. I think we will all grant that, as a member of the Committee, he has the right to bring before the Committee those things which he deems they should investigate.

I said -- and I repeat here -- that I felt a charge of that kind should have emanated from the Committee which was set up to investigate irregularities all along the line.





I further said that personally I was not impressed with, nor do I indulge in, what I call "melodrama". I have never, and I do not think I ever will cater in the future to the sensational as against the proper procedure of bringing this before the Committee. My position in that is quite clear.

As far as the affidavits are concerned; I will say frankly I have not seen them, and when they come before the Committee I will have the right, as a Committee member, to go into them, in company with the other Committee members, and come to a conclusion on their relevancy, and on their strength, and on their adaptability to the course we have in mind.

I want to make it quite clear before I finish speaking, that I give to Mr. Wren -- just as the Chairman would give to a member of his own Party -- the right to bring before the Committee any matter which he thinks should be investigated.

I will say this further; if any man came to me with affidavits purporting to show there had been irregularities in the Highways Department, and concerning the personnel of the Highways Department, I would feel I was in duty bound to bring those affidavits before the Committee, and have the Committee judge as to their relevancy, and as to their importance.



I presume that is the attitude and the course which Mr. Wren is taking.

HON. MR. PORTER: Do you approve of the manner in which he went to the Crown Attorney?

MR. OLIVER: I am not commenting on that.

HON. MR. PORTER: Mr. Wren was your nominee, as a member of the Liberal Party of the House, to this Committee. Do you approve of what he did?

MR. OLIVER: I am not on the stand. If you want me on the stand, I will go over and be glad to do so.

MR. GRUMMETT, Q.C.: Mr. Oliver is not being examined by the hon. Attorney-General (Mr. Porter).

HON. MR. PORTER: If he does not want to answer, he need not answer.

MR. OLIVER: Is it not the right of anyone in this province to go and lay a charge?

HON. MR. PORTER: Not under the circumstances --

MR. OLIVER: It would be under an ordinary government. It may not be under this one, but I think that is the right of any person in the province.

THE CHAIRMAN: I think if everyone will speak out as well as Mr. Oliver, there should be no difficulty in hearing him out in the corridor.

I do not see any objection at the moment to





reading this correspondence, because Mr. Wren is aware of it, and when he comes in, if anyone wants to draw his attention to it, and he wants to make any comment, he may do so.

It will take a few minutes, and I see no objection to reading it at this time.

MR. OLIVER: I am not a lawyer, for which at most times I am thankful, but at the same time, these letters are the foundation for the meeting here today; they lead up to it. I think in fairness to the member who preferred the charge, he should have the opportunity of hearing these letters read.

HON. MR. PORTER: The "fairness" should go both ways.

THE CHAIRMAN: I do not see any objection to reading them now, and letting him see them when he comes in. He knows what is in them. I want the record to be clear.

MR. BECKETT, Q.C.: I do not see what bearing it would have on what we do afterwards. Let us get them on the record.

MR. OLIVER: I am more moved by your argument, Mr. Beckett, than by others, but at the same time I think we should not read them until Mr. Wren arrives.

THE CHAIRMAN: I think they may be read at



this time. Will you proceed, Mr. Secretary?

MR. JOHNSTON (Secretary): The first is a telegram to Mr. A. Kelso Roberts, Q.C., M.P.P., Parliament Buildings, Toronto, dated August 5th, 1954, and reads:

"Reports indicate my letter to you astray Stop  
Bearing in mind commitments I urge Committee  
deal with my evidence of a Crown Minister accepting  
considerations while in office Stop We should be  
assured that we are getting unreserved answers  
to our questions from all levels if our work is  
to be useful Stop Before Atikokan Highway is  
opened Ontario should have the Premier's word  
that all wages and accounts incidental thereto  
have been paid."

(signed) "Albert Wren"

The next is a telegram dated August 5th, 1954, to Albert Wren, Esq., M.P.P., Kenora, Ontario, and reads as follows:

"Your telegram of today's date from Winnipeg has  
just been read to me by telephone from the  
Parliament Buildings Stop No letter has been  
received by me from you Stop When I know what  
witnesses you wish to have testify and whether  
you yourself wish to give sworn testimony before  
the meeting I will deal with the question of a  
date for it Stop As you know when the Committee





adjourned it was not the intention to re-assemble before September except for an emergency.

(signed) A. Kelso Roberts, M.P.P.  
Chairman,  
Highways Investigation Committee".

The next is a letter dated August 5th, 1954, addressed to Mr. A. Kelso Roberts, Q.C., M.P.P., Chairman, Select Committee on Highways, Parliament Bldgs., Toronto, Ontario, and reads:

"Dear Mr. Roberts:

Reply to the questions raised in your telegram of even date I would state I would wish to call a number of witnesses before the Committee (a minimum of six) who I will be responsible for having available once the date of meeting has been established. Through these witnesses, I will establish that the Minister of Highways did, while holding that office, receive in cash or in kind considerations which would exceed \$1000.00 in value. It is not my intention to give advance notice of names and thereby expose people to press comment and to suggestion of reprisal for anything they may say before the Committee.

You ask also whether I wish to testify. My answer there is that I will enlighten the Committee in the same fashion as you, as Chairman, have been



doing, namely by producing witnesses and documents for examination by the Committee. This I shall do in several matters once the trials now pending have ended or have proceeded to a point where there will be no prejudice toward those who have been or will be charged. During the life of this Committee you need not doubt that anything I have in the way of information I consider useful will be fully and completely examined. It will be my desire to have before this Committee a number of contractors for thorough examination of their activities. I trust this is the information you wish.

With kindest regards,

Sincerely yours,

(signed) 'A. Wren'

Albert Wren, M.P.P."

MR. OLIVER: Did he say there he would be responsible for having the witnesses appear? I see he has arrived now, and you might tell him what you are doing, Mr. Chairman.

THE CHAIRMAN: Now the Committee is complete, all members being present.

The Secretary is in the midst of reading the correspondence which has passed between myself, as Chairman,





and Mr. Wren, in relation to this matter. You are fully aware, Mr. Wren, of what happened. I think our Secretary has read the first two telegrams, and he might now continue.

Mr. Oliver has made a statement, and you may want to find out what he had to say also.

Will you continue, Mr. Secretary?

MR. JOHNSTON (Secretary): This is a copy of letter dated August 9th, 1954, addressed to Albert Wren, Esq., M.P.P., Box 212, Kenora, Ontario, and reads as follows:

"Dear Mr. Wren:

I have your letter of August 5th, 1954, which is the first letter I have received from you. You did not mention in it the earlier letter you referred to as having been sent to me and which, as I informed you in my wire of August 5th last, I have not received, nor did you send a copy of it.

I received your day letter from Winnipeg of August 5th reading as follows"

'Reports indicate my letter to you astray stop bearing in mind commitments I urge Committee deal with my evidence of a Crown Minister accepting considerations while in office stop We should be assured that we are getting



unreserved answers to our questions from all levels if our work is to be useful stop Before Atikokan Highways is opened, Ontario should have the Premier's word that all wages and accounts incidental thereto have been paid.'

To this wire I replied on the same day as follows:

'Your telegram of todays date from Winnipeg has just been read to me by telephone from the Parliament Buildings stop no letter has been received by me from you stop when I know what witnesses you wish to have testify and whether you yourself wish to give sworn testimony before the meeting I will deal with the question of a date for it stop As you know when the Committee adjourned, it was not the intention to reassemble before September except for an emergency.'

You have indicated in your letter of August 5th that you do not propose to give testimony as a witness. Before I am prepared to summons a special Committee meeting such as you suggest, I must have the names of the persons who wish to give evidence when I will ask the Speaker to issue his warrants to assure their attendance before the Committee.If you do not wish to give



the information required for this purpose now, then you will have to await a meeting of the Committee called in the normal course as contemplated when we adjourned on June 30th last.

Yours sincerely,

(signed) 'A. Kelso Roberts'

Chairman,  
Select Committee on Highways  
Investigation."

The next is a telegram dated August 17th, to Mr. A. Kelso Roberts, Q.C., M.P.P. from Albert Wren, M.P.P., and reads as follows:

"Respectfully submit following names to appear before the Highways Committee Stop Please allow me seven days' notice of date Stop Hon. George Doucett, Edward T. Wride, 292 Parliament St., Toronto, J. Jakigstets, Cobourg, Ont., Stanley Voland, Noranda, Que., I. Mchue, Picton, Ont., Harvey Cotnam; Charles I. Dubin, Q.C; H. J. McFarland, Picton, Ont., Leon Kossar, Toronto Telegram, Toronto, Stop In addition I request that books and vouchers of the H. J. McFarland Construction Company Limited be attached and made available to the Committee Stop also appearance of farm manager of George Doucett from 1943 to date Stop will bring other witnesses before





Committee as meeting progresses Stop will also ask that Premier Frost appear as can be arranged at his convenience Stop I request that all persons named herein be provided with complete protection under the law from intimidation from any source respectfully,

(signed) Albert Wren, M.P.P."

The next is a letter dated August 27th, 1954, addressed to Mr. A. Kelso Roberts, Q.C., M.P.P., Chairman Select Committee on Highways, Parliament Bldgs., Toronto, Ontario, re "Special Meeting - Sept. 8/54", and reads as follows:

"Dear Mr. Roberts:

Your notice dated August 24th was forwarded to me here today.

While I will certainly be present at the September 8th meeting, I would respectfully request that you acknowledge and reply to the telegram sent to you August 17th in which, at your request, I did name several witnesses I wished called together with certain books and documents which I desired attached. Without your acknowledgment and report which if you did mail has not been received by the writer, I do not have any assurance from you of what witnesses have been required to appear now do I know whether or not



you have attached the books and records I requested. I would point out that my distance from Toronto prevents me from keeping active detailed attention to these details which I entrusted to your care and it would be a mark of appreciation if my communication were acknowledged and your personal report submitted.

Your attention is also drawn to the wording of your notice of the meeting. You are confining the purpose of the meeting to certain men working on a farm, etc., this is definitely not my intention for while this evidence be brought forward the intent of my questioning of witnesses, both named and unnamed, will be to establish to the Committee that answers to my questions on June 30 and other dates were not freely and truthfully given. I want to make it very clear that the subject of inquiry will not be confined to the incidents or persons you set out in your notice of meeting and I would now register strong objection to the creation of that impression through your notice of August 24th.

Surely the weight of numbers on the government side of the Committee does not prevent a proper acknowledgement and report to me of progress toward





this meeting and neither should it be suggested, without consulting me at all, that the subject of inquiry or purpose of meeting is so confined.

It has been my belief that a Committee of this kind would be eager to deal with any information leading to a solution of the serious problems of the Department of Highways. I still subscribe to that belief but it is shadowed when I find my communications ignored and specific 'charges' set out over my name in a confining way without a word of consultation with me. I will set out my submissions for I have nothing to hide and I have no other aspirations than that of restoring a great Department of Government in the public confidence, a confidence which has been shattered not by the men in the field, but by those responsible for policy.

I intend to name additional witnesses but I first want your report concerning those already named so that I can feel confident that this matter will be reviewed in an open manner 'right up on top of the table'.

Yours respectfully,  
(signed) ' Albert Wren, '

M.P.P."

And the last is a copy of letter dated



August 31st, 1954, addressed to Mr. Albert Wren, M.P.P.,  
Box 212, Kenora, Ontario, and reads as follows:

"Dear Mr. Wren:

I have your letter of August 27th which was  
sent to the Parliament Buildings and forwarded to  
this office.

You have asked for a special meeting of the  
Committee and one has been called. Be assured  
it will be confined to the issues raised and  
properly before the meeting and conducted on sound  
judicial lines assuring fair play to all concerned.

The Speaker has issued a number of warrants  
and delivered them to the Clerk of the Legislative  
Assembly who in turn is looking after service.  
No doubt the office of the Leader of the Opposition  
is keeping track of the situation.

Yours very truly,

(signed) 'A. Kelso Roberts, M.L.A.'

Chairman."

EXHIBIT NO. 57 : File of corres-  
pondence as read by the  
Secretary, admitted in evidence,  
without objection, to form  
part of the record.

THE CHAIRMAN: That is the correspondence which  
has passed. The members of the Committee have received  
notice calling this meeting, which the Secretary has



just read.

The charge made by the hon. member for Kenora (Mr. Wren) is a very serious one, and is one for which he must assume full responsibility.

I would like to go back to what I said when this Committee first met on the 14th of April. None of us expect this Committee to turn into a fishing expedition or a witch hunt, and none of us should countenance the wasting of time and public funds on useless or unnecessary actions.

Heavy duties and responsibilities have been placed upon each of us as members of this Committee, and to discharge them properly will require our thorough, unbiased and constant study of the matters and evidence coming before us. I feel also in my remarks, which will be very brief, that I should, in view of the seriousness of this charge, and not with the idea of tipping any balance, properly at this point ask the members of this Committee throughout the hearing to keep in mind the words of the poet Shakespeare, which appear in "Othello", which I will read. It is as follows:

"Good name in man and woman --"

This is Iago speaking to Othello --

-- dear my lord,

"Is the immediate jewel of their souls:





"Who steals my purse steals trash; 'tis something,  
nothing;

"Twas mine, 'tis his, and has been slave to  
thousands;

"But he that filches from me my good name

"Robs me of that which not enriches him,

"And makes me poor indeed."

I hope we will approach everything today having in mind the balances, having in mind the charges, and having in mind the proper appreciation of proof.

The hon. Minister of Highways (Mr. Doucett) who is more concerned than anyone else, is represented by Counsel, Mr. R. A. Hughes, Q.C. I think Mr. Hughes would like to make a statement at this time, and perhaps a request, and I think we might have that now.

MR. OLIVER: On that point, Mr. Chairman; this is an innovation to have a Counsel speaking for any one of the Committee --

THE CHAIRMAN: I think perhaps you will have to hear what he has in mind, and then we can deal with it.

MR. OLIVER: That may be alright, but it is equally fair, if we are going to have Counsel on the Government side --

HON. MR. PORTER: It is not "Counsel on the Government side" at all.

MR. OLIVER: What is it?



THE CHAIRMAN: Mr. Hughes is not representing the Government in any manner. He is representing hon. Mr. Doucett personally, and he has certain comments in regard to this matter which I think the Committee should hear. And then, Mr. Oliver, if you take the position that at any time we have arrived at a point where the questioning or examination of witnesses by Counsel would be desirable, you may wish to have separate Counsel.

HON. MR. PORTER: Let us hear what Mr. Hughes has to say.

THE CHAIRMAN: Mr. Hughes is not approaching this with any thought that he represents the view of the Government at all. He is speaking purely on behalf of hon. Mr. Doucett, personally.

I think we should hear what he has to say, and the Committee will deal with it.

MR. OLIVER: I think right now, Mr. Chairman, if Mr. Hughes is going to speak on behalf of the hon. Minister of Highways (Mr. Doucett), I might ask you this question; did you inform Mr. Wren that he could have Counsel?

MR. WREN: No.

THE CHAIRMAN: He did not ask for it.

MR. OLIVER: That does not matter. If we are going to have a departure from what has been, up to now,





the routine, all parties should have known of the leeway to be allowed.

We came here this morning feeling the same conditions which have prevailed before, would still prevail, and we find the first witness called is virtually a Counsel.

THE CHAIRMAN: He has asked permission to make a request, and if the Committee is willing to hear him on that basis, we will proceed.

I want to make it clear he is not appearing here as Counsel with authority to cross-examine at this time, and not until the Committee consents, should he have that right.

MR. WREN: Mr. Chairman, I have been at some distance from Toronto, and unfortunately was only able to arrive today, and then late, and what I wanted to hear this morning from you, as Chairman, with the concurrence of the Committee, of course, was a statement of the procedure which we would follow, and I would respectfully ask you to outline --

THE CHAIRMAN: That is what we are going to settle.

MR. WREN: Then I will ask for a short adjournment, perhaps half a day so I can get my material together.

THE CHAIRMAN: If you think this Committee is



sitting for your convenience, you have another "think" coming.

HON. MR. PORTER: You have been preparing it for months. You had all the information last June, but you did not use it.

You sneaked down to the Crown Attorney, and did not tell him anything, and then tried to make it look as if he refused to lay a charge. You gave him no evidence at all.

I have never heard of such a despicable attempt to smear a member of this Government.

MR. WREN: Are you pre-judging this matter now?

THE CHAIRMAN: Mr. Hughes can appear now, on the basis which I have mentioned.

MR. R. A. HUGHES, Q.C.: Mr. Chairman, and honourable members of this Committee: I am from Eastern Ontario, and am unknown to all of you, certainly in political life, and I take no political stand for any member.

I am appearing for a man whose character, in effect, I feel, has certainly been called into question, insofar as this particular meeting is concerned, and insofar as one member of the Committee has laid, what amounts, in effect, to a perjury charge.

He has been tried by the Press and radio and by inferences given by the member of this Committee to



the Press, based on certain information which came from a source which I am quite sure this Committee, at the conclusion, will decide was a source which nobody should have accepted.

MR. OLIVER: That is an unfair statement to make at this time.

HON. MR. PORTER: That is not unfair at all.

MR. OLIVER: It is unfair.

MR. GRUMMETT, Q.C.: No lawyer would be permitted to make a statement of that kind in Court.

HON. MR. PORTER: This is not a Court, *Def 2107*  
Mr. Grummett.

MR. HUGHES: If I said something to offend any member of this Committee, I did not do it with any wish to offend.

I am not speaking on behalf of the Party; I am speaking on behalf of the man himself. Any one of you may have been in a position on occasion -- even myself -- of being accused of committing a crime.

I want to make my position clear. The Press has talked about "perjury". It is quite true that the notice calling a meeting does not refer to it in that way, and, in effect, the papers have been quite fair in reporting it, but it amounts to that, insofar as hon. Mr. Doucett is concerned.

I have a motion to make, and ask leave of you





gentlemen of the Committee to make it, and I ask that it be unanimous. If you will allow me to represent hon. Mr. Doucett, I feel the evidence which is in my possession now will fully satisfy the Committee. I have only recently been retained by Mr. Doucett, but those down in Eastern Ontario who know him so well, have instructed me in such a way that I am quite sure I can help and assist in giving full information to the members of this Committee.

I only ask that it be unanimous, possibly with one exception. That is, I cannot ask one who has sat in judgment on my client to make it unanimous. Hon. Mr. Doucett should get fair play, and in saying this, I refer to one member, who saw fit to try and attempt to convict hon. Mr. Doucett through the Press and the radio.

MR. OLIVER: Will you not grant me this; that it is not for the member to attempt to convict anybody, but it will be for this Committee to decide whether, on the evidence, there is proof or lack of proof?

HON. MR. PORTER: Mr. Wren never said this before the Committee. He said it to the Press.

MR. OLIVER: And the Committee is now meeting to assess it.

HON. MR. PORTER: When this Committee sat in June, the hon. member had all the information he has now, and Mr. Doucett was asked certain questions by the member,



who had all that information in his possession, but he did not give Mr. Doucett the benefit of what he was talking about.

He has spoken to the Press about a certain incident which occurred six years ago.

All the talk we have heard --

MR. WREN: Why do you not wait until you hear the evidence before judging it?

HON. MR. PORTER: I am not judging it now, but I am judging you. I know you.

MR. WREN: And I know you. Your persecutions are well known in the province.

THE CHAIRMAN: Order, gentlemen.

I realize there is a certain amount of tension at the moment, but let us hear Mr. Hughes, and he, I think, will respect the position he has here, and the indulgence which we allow him, and will not over-step the mark.

MR. WREN: I want to make one more point, and make it very clear, that I am coming to this meeting of the Committee entirely without counsel, and without the advice of counsel, simply because it was my understanding that is the way these meetings were conducted.

I have not had sufficient experience in Parliament to know whether or not that is wrong, but if



you people are coming before this Committee with counsel, I reserve the right --

HON. MR. PORTER: You have had counsel sitting in these Committee meetings ever since they started.

MR. OLIVER: But not addressing the Committee, Mr. Porter.

THE CHAIRMAN: You might just proceed, Mr. Hughes.

MR. HUGHES: May I answer the hon. member; I know this Committee, as a whole, will judge the evidence, but evidence is sometimes known to parties other than members of the Committee, and perhaps it would be not only better to bring it out in cross-examination, but it would shorten, I think, considerably, the work of the Committee.

I assure you that I have no intention at all to advance the interest of either Party. I am thinking solely of the man who had an interview with the Crown Attorney, but gave him no information upon which he could lay a charge. I am prepared to adduce such evidence before the Committee, if necessary --

MR. WREN: That is an erroneous statement. I want to clear that right now. I will have you know that the Justice of the Peace in the City Hall read completely and entirely the affidavits in my possession





before he gave me his opinion.

MR. HUGHES: I understand the Senior Crown Attorney of the city of Toronto was consulted. No charge was laid, and in fact, a special session of this Select Committee has been convened to adjudicate upon it.

I do not object to your jurisdiction. I know you are not bound by any stringent rules; there are no rules laid down as to what you should or should not do.

But there is one rule which I know is known to every member of this Committee, and that is the old British tradition of fair play for one whose character has been challenged by a member of the Committee who <sup>said</sup> has/and is saying, in effect, "I am your accuser; I have judged you; I have laid a charge, and now I will sit in judgment on you".

He must have been convinced that a crime was committed, and he sits here almost in a Judas-like manner --

MR. OLIVER: Mr. Chairman, I cannot allow this to go on any longer at all. This gentlemen speaking on behalf of hon. Mr. Doucett, is giving a preview; he is settling the thing before we have heard --

MR. GRUMMETT, Q.C.: Before we have heard one witness.

MR. OLIVER: We have to hear the evidence, and



I think the gentleman can depend on the Committee to be fair-minded about it, after hearing the evidence, and not try to bring --

HON. MR. PORTER: In view of what the hon. member for Kenora (Mr. Wren) did, I would not expect --

MR. OLIVER: I would not expect you would. Why should we not hear his witnesses?

HON. MR. PORTER: Mr. Hughes is doing more good than the activities of the hon. member for Kenora (Mr. Wren) have done between meetings of the Committee.

MR. HUGHES, Q.C.: I ask that I be allowed to ask questions of certain witnesses who may be called on behalf of Mr. Doucett.

The foremen have been asked to come here. They have not been interviewed by any member of this Committee, nor does any person know what evidence they will give.

It amazes me to think that some person has said that their names should be put down as witnesses, to find out whether or not hon. Mr. Doucett had men working on his farm for him, whom he did not pay.

I think that some person is engaged in a "fishing expedition". I am so sure and positive from what I know about it, that I did not want to let this go as a "political foot-ball" against a man whose reputation is unsullied.



MR. OLIVER: Do you not think this Committee will find out if it is a "fishing expedition"? Have you no confidence in the Committee?

MR. HUGHES, Q.C.: I feel, as a lawyer, that I have information no member of this Committee can know. I have no method  
/ of going to any member of this Committee and saying, "I have this and that, and I want you to ask this question of a witness, or that question". I have no method of doing that whatsoever.

MR. OLIVER: We had no counsel, and we were just struggling along.

THE CHAIRMAN: We have proceeded, up to this time, in this Committee, by a method of questioning witnesses by members of the Committee. It is true we do not get into such situations as this very often --

HON. MR. PORTER: We have never been in a situation like this.

MR. WREN: That is perfectly true.

THE CHAIRMAN: I would say, if it appears that what you suggest is essential, as a result of the way the proceedings are going, you should be allowed to renew your request. At the moment, it may be a little premature to ask for that procedure, because our proceedings up to this point have been satisfactory. That is my view, at least. If we find we are getting





into difficulties, you will be allowed to renew your request.

MR. OLIVER: Then there should be counsel for both sides.

THE CHAIRMAN: I think that is right.

MR. JANES: Then in this Committee meeting, Mr. Wren should not ask the witnesses any questions.

MR. OLIVER: Is he not a member of the Committee?

MR. JANES: If the hon. Minister has not the right, through his counsel, to ask questions, then Mr. Wren should not be allowed to ask any.

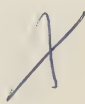
MR. BECKETT, Q.C.: We did not make a ruling that nobody could have a solicitor appearing for him.

THE CHAIRMAN: If the necessity arises, we will deal with it. I do not think the question has ever come up before.

We are dealing now with charges which appeared in the Press, and not made in this Committee. The hon. member for Kenora, (Mr. Wren) studiously avoided that --

MR. WREN: Mr. Chairman, I did not "studiously avoid that", and I would ask, if that point you claim is so important, why was it not taken into the Civil Courts?

MR. HUGHES, Q.C.: That is just what I think he wanted, that is, a sounding platform to make more





accusations.

MR. OLIVER: We can go on with this all day.

MR. GRUMMETT, Q.C.: I think we had better proceed now. The gentleman (Mr. Hughes) has made a statement.

THE CHAIRMAN: Mr. Beckett, Q.C., said we came to no final decision about counsel. We have an understanding, and if the Committee feel we should continue that way, we could do so, but we are still able to change our minds and go on, on that basis.

MR. WREN: What is the rule in committee on legal matters? Are counsel prohibited?

THE CHAIRMAN: We are making our own rules as we go along.

Now, Mr. Richardson, you asked for permission to speak.

MR. E. A. RICHARDSON, Q.C.: Mr. Chairman and gentlemen; the Press has linked with the name of the hon. Minister of Highways (Mr. Doucett) on numerous occasions, the names of Mr. McFarland and his Company. I represent Mr. McFarland and his Company today. He was accused of crime by a member of this Committee, through the Press. I have a great deal of information, as I have looked into this matter very carefully, and I, like my learned friend, Mr. Hughes, would like to ask



questions and submit evidence before this Committee. I need not repeat what Mr. Hughes has said, but I may say this; that had Mr. Oliver, who has always been very fair, or had Mr. Wren approached Mr. McFarland and said he or they had an affidavit and produced it, or said they had any information, Mr. Wren could have found from examination of the books, or from enquiring from Mr. McFarland, that at no time did hon. Mr. Doucett obtain any services from Mr. McFarland or his Company --

MR. OLIVER: Surely, Mr. Chairman, that is improper.

MR. RICHARDSON, Q.C.: May I conclude, Mr. Chairman? A member of this Committee and a member of the Legislature, has charged the hon. Minister with committing a crime.

MR. OLIVER: That is right, and this Committee is charged with finding out the truth or otherwise of that charge, and we are here to find out whether what you are saying is a statement of fact or not.

MR. WREN: I am not going to be accused by any Barrister or anybody else coming before this Committee. If Mr. Richardson wants to make some statement, let him make himself available as a witness.

MR. RICHARDSON, Q.C.: I will make this statement as a witness, if necessary, Mr. Chairman.





THE CHAIRMAN: I must ask the Committee to pay attention to the rulings of the Chair. I have not had to ask for that as yet, and I certainly hope I will not have to use the gavel.

MR. COLLINGS: If the hon. member for Kenora (Mr. Wren) wants to throw stones, he must expect to get some thrown back at him.

HON. MR. PORTER: If he threw them in the proper way, but he has not.

MR. OLIVER: They might be in the proper way.

HON. MR. PORTER: They are not.

MR. OLIVER: You are pre-judging this entire matter.

HON. MR. PORTER: I am not, but I have my own opinion.

MR. RICHARDSON, Q.C.: Any statement which appeared in the Press regarding Mr. McFarland showed obviously, if there was an affidavit, it was based on perjury. If that affidavit is produced, a charge of perjury will be laid against the person making it.

All this could have been cleared up, if Mr. Wren had made enquiries and the statement by a member of this Legislature against a Minister of the Crown, has reflected on Mr. McFarland.

HON. MR. PORTER: It could have been cleared



up in June, when the Committee was sitting. The hon. member for Kenora (Mr. Wren) had all the information in his files.

MR. RICHARDSON, Q.C.: It may be that I shall wish and desire to cross-examine, or adduce evidence, and if the Committee will bear with me, on an application later on, I may pursue it.

MR. OLIVER: If we want you fellows, we will ask for you.

MR. RICHARDSON, Q.C.: Mr. Oliver, may I complete my submission to the Chairman? I have here, Miss Frederick, who is the bookkeeper, accountant, and Secretary-Treasurer of the McFarland Construction Company, and the Robindale Quarries, Limited, whom the Committee will learn has had something to do with this matter, and I would like the Committee to call Miss Frederick and permit her to produce the records, which, although six or seven years old, will provide an explanation of this matter to this Committee now, and once and for all, so there will be no doubt in your minds, that hon. Mr. Doucett had no association with Mr. McFarland at all.

Mr. McFarland is a business man, and the greater part of his business is not with the Ontario Government at all, and I would like to have this matter cleared up and entirely.



THE CHAIRMAN: Mr. Richardson, one of the things which was asked for was the production of documents in relation to this charge. You say you have certain documents which you think will clear this matter up very promptly?

MR. RICHARDSON, Q.C.: Yes, Mr. Chairman.

THE CHAIRMAN: If there is no objection --

MR. WREN: Let us hear the evidence.

MR. OLIVER: If we could keep the lawyers down, my friend could present his case.

HON. MR. PORTER: We are dealing with a case stated in the newspapers.

MR. OLIVER: We should have it re-stated here. I would like to have it here before the Committee.

THE CHAIRMAN: If Mr. Wren wants to say something --

MR. JANES: It seems to me Mr. Wren should cease to be a member of this Committee.

MR. OLIVER: Oh, you are a "Tory" of the old school.

THE CHAIRMAN: You are asking for his resignation, Mr. Janes?

MR. JANES: I am. I think he should not be a member of this Committee.

MR. OLIVER: That is a matter of opinion.





MR. GRUMMETT, Q.C.: The opinion of an apologist for the Department.

MR. JAMES: We do not need any apologists.

MR. OLIVER: There are varying views on that.

THE CHAIRMAN: Mr. Richardson has made a statement concerning facts for which Mr. Wren has asked. He says the books will show that certain payments have been made, clearing this matter up. Perhaps we should start with the books, right away.

MR. WREN: I have something to present --

THE CHAIRMAN: If you have anything to present, present it now.

MR. WREN: I asked you if you would outline the procedure now.

THE CHAIRMAN: Do you want to say anything about procedure? If you do not want to say anything, I will call Miss Frederick immediately. Have you any comments you want to make?

MR. WREN: I want to say something, but I want light now on the procedure --

THE CHAIRMAN: I will not discuss procedure with you. If you have any presentation to make, make it now. If you think you are going to talk with me about procedure, you have another "think" coming.

MR. WREN: I am prepared to read my statement,



then we can carry on.

THE CHAIRMAN: If you want to make a statement, make it now. If not, I will call Miss Frederick.

MR. WREN: Alright, I will make my statement now.

THE CHAIRMAN: Alright, proceed.

MR. WREN: I have prepared this statement:

"Mr. Chairman and Gentlemen:

It would appear that it is my right if not my responsibility to make at this time, a clear statement of my position in regard to matters now before this Committee. It is clearly evident in my mind that this should be done at the outset, for it is my desire that you should know what my thinking might be and the principles I intend to develop.

I would first make it clear that in this and in fact in related matters, I am now interested in personalities and I am not of any intent to discuss the personal life of any person. I am vitally interested in the principle that men in public life and particularly Ministers of the Crown should bear full and unreserved responsibility for the discharge of the duties, responsibilities, and the activities of any department of government. It is not sufficient to say at any time that responsibility



for a Department rests with the Civil Service; if it does, then I feel very strongly that there is no place for any of us in these halls for we depart at once from the very principles of responsible government. It is not to state that improper action in the Civil Service should not be a subject of discipline, but I do say that having been disciplined, the Civil Servant's actions must be shared by those from whom direction flows; from those who make the policy.

I am not unmindful of the consternation and the responsibility which has been occasioned by the calling of this meeting and I am quite prepared to explain and to accept full responsibility for any actions or statements for which I am responsible for initiating. Having said this, I now insist that I have believed for many months that the continuance of this Select Committee would have no satisfactory basis until it could be clearly established where responsibility lay within, in this case, the Ontario Department of Highways. I also believe that political considerations should be secondary to the diligent personal effort of every individual member of this Committee to unearth even the minutest detail of questionable activity within that Department so that a foundation can be





laid for a safe and sane future. With that there is the equally important aspect that the Minister in charge (and the name is not important, it is the office of which I speak) is by official and personal activity, while a Minister, completely above reproach both in official action and in official relations with people who are doing business with the Crown. If the example of a Minister is not healthy to the Department, then that Minister has no place at its head. Likewise, if repeated undesirable instances of a like nature are evident than that Minister is either unable or unwilling to discharge his duties. As long as I continue to be a member of this Legislature, I shall hold the view that any Minister is responsible for the official actions of civil servants in his Department and directly responsible for the conduct of those under his direction. Without this rule, either the Minister or the civil service will become uncontrollable. And it is of vital importance then that the statements of a Crown Minister are completely without reservation so that there cannot be any misinterpretation of extent or meaning. And when discipline of a civil servant leads to the courts, the policy real or implied under which misdemeanors developed should first be made very clear



and it might be better law if the head were required to be jointly examined before a Court of law. Again, for many months my conscience has been heavy concerning those Civil servants who are now on charge, not because of condoning anything which may have been alleged, but because their situation could well have developed through policy or practice or the very lack of it. Therefore, I did conclude in my own mind that it was my duty as a member of this Committee, along with as many as might care to share my thinking, to bring to public attention events and incidents which would have a bearing on the attitude of the staff of any Department under similar circumstances. Whether my thinking is right or wrong, I feel it my responsibility to state for the consideration of this Committee that Ministerial attitude, responsibility, policy and example, should be the subject of the closest kind of public examination before the trial of an employee should proceed. Other than the detention of convicted persons for a period of time, no useful public purpose will have been served. In the case of high officials of a Department, I feel there should be in the preliminary hearing stage, a clear statement from the Minister concerned that there has or



has not, in respect to the meaning of the charge been a breach of trust or deviation from accepted practice and policy. To my knowledge, no such statement has yet been taken under oath to provide an official charged with the right or privilege to reply. (The alleged actions of contractors is another matter).

With this preface, I now will explain to the Committee the events, incidents and details leading up to the apparent purpose of this meeting.

In the course of the activities of this Committee, the sums of money involved in over-runs, 'fudging' and unexplained payments, were under the able investigation of the Provincial Auditor and later the appointed special prosecutor. These able men ran into difficulties, I know, for several reasons. First there is a clear line of demarcation between their permissive duties and responsibilities and the duties and responsibilities of a member of the Legislature. For example, if they were to find examples of bad public policy or activity they could not proceed in the Courts unless the law so permitted and there it becomes our responsibility as members of this Committee to examine matters which have gone past the time limit for prosecution





but which are yet important matters of public interest so as to require future checks. Then these men had to deal with people who were afraid to say too much which fear developed into resentment that respected superiors and colleagues were being charged with offences which in the main became offences because someone in direction of policy had established a precedent and had set out certain practices by example. Certainly there is little doubt in my mind that many instances developed through verbal instruction or suggestion from a higher authority and I repeat here that while I do not condone alleged criminal offences, I do feel that several officials, if found guilty as charged will become examples of persecution if those whose policies they followed and whose approbation gave consent are not jointly charged and this view is shared by a great many citizens.

Knowledge of irregularities in this Department is not new and it is not confined to discovery by the Department during 1953.

In 1951, I was elected to the Legislature, following an unsuccessful 1948 campaign, in the face of the bitterest kind of opposition simply because I made no secret of the fact that if I were



elected, I would carry out stated objectives to clean up politics in my end of the province, particularly in the Department of Highways which had and still has the great patronage influence. The petty chisellers and the 'big operators' had been at work in my area and not without official knowledge of what was going on. Certain selected individuals waxed well from the Department's activities and their co-incidental association with the Progressive-Conservative Party. Other unfortunate uses of public office were made to the tragic end that a life was taken and the tide turned. The pressure did not lessen, however, and the persecution of persons suspected of having aided in my election kept on -- never a move to punish miscreants who supported the government of the day."

HON. MR. PORTER: All this has no support in evidence at all. Let us get down to the specific charge.

THE CHAIRMAN: Can you not get an audience in your own riding, instead of bringing it down here?

MR. JANES: Just using us for a sounding board.

MR. WREN: To continue:

"People began writing me, calling me, talking to me, and I had a busy time trying to sort out real



matters of complaint from personal prejudices and having had my share, I had and have no brief for that sort of tack. I repeat that I am interested in principles involved, not the persons. And in this matter, it is the office of the Minister of Highways with which I am concerned, not the person who occupies the office. And while I share with others certain political affiliations, my first loyalty is to all the people of my riding and to all the people of Ontario; I am first of all a member of the Legislature and I am concerned with my responsibility to the Legislature and to the people to scrutinize official activities of any Minister and express my findings thereon as a member of Her Majesty's Loyal Opposition.

Thus I checked and re-checked a host of information. In some cases I found backgrounds in informants which could not encourage too great faith in statements made, and therefore while their information was important, it had to be checked by other sources before conclusions could be reached. Therefore, I followed what I thought a proper course and went to Crown officials for checks and it is only on that kind of verified information that I have acted or will act. (I wish



to emphasize here that I received from these officials, only information, not advice."

In other words, I am not placing any responsibility on those officials. It goes on:

"Now touching upon one phase of these matters, I learned of the use by a Minister of the Crown (in this case, Mr. Doucett) of employees who were on the payroll of a certain contracting firm (H. J. McFarland Co. Ltd.) which firm has received Ontario contracts running into many millions of dollars and I was provided with information which established to my satisfaction that these men had been paid by the contracting firm."

HON. MR. PORTER: May I ask you this, Mr. Wren? You had all that information last June?

MR. WREN: No, I did not.

HON. MR. PORTER: This is information contained in the statement made by your witnesses at that time? You turned the witnesses over to the Crown.

MR. WREN: Wait until I finish, and then I will explain.

This raised several questions in my mind:

"1. Why would a Minister of the Crown find it necessary to expose himself to criticism through





the use of men which had been or would be tendering for public work sponsored by his own Department."

HON. MR. PORTER: Mr. Wren, when hon. Mr. Doucett was in the witness box, you did not ask that question.

MR. WREN: I did not know it at that time. If you will just wait. Do not be so impatient.

HON. MR. PORTER: The witnesses you had, had already made the statement, and you had it in your possession last June, but you did not ask the simple question about something which happened six years before.

MR. WREN: May I continue?

- "1. Why would a Minister of the Crown find it necessary to expose himself to criticism through the use of men which had been or would be tendering for public work sponsored by his own Department.
2. If it was the intention of the Minister to pay for services of this kind, why would he not pay them through his own bank or cash account especially when the men were doing work normally done about a farm. It was my impression that a farm manager was there. Was it done to keep the man in insurable



occupations without advising insurance authorities?

3. If the Minister were paying a contractor for straight services (and the contractor added a normal profit) why would the Minister add gratuities in cash?
4. Why would a Crown Minister use the services of men whose entry to Canada and whose permission to stay in Canada might be conditional upon remaining at one type of work for a minimum of twelve months?
5. Was this an instance where a Minister was establishing a precedent which through practice might become a Department policy? In effect, could a lesser official be censured for receiving contractors' services when it appeared that the very Head of the Department was doing the same thing. If the field official was checked, could he not say that he had paid the bill or returned the gift and if so inclined, await a more favourable opportunity?
6. Inasmuch as it was fairly well known that these men worked on the Minister's farm, why did not someone raise the question earlier?
7. The report of J. D. Woods & Gordon made special



mention of and placed strong emphasis upon their feeling that exchange of gifts should not be tolerated. It was therefore reasonable to ask -- what had initiated this apparently widespread Departmental practice?

With these facts at hand and these questions in my mind, and with a limited parliamentary experience, I was at a loss to decide what my attitude would be and I therefore consulted with competent friends in Parliament, in law, and in the Roman Catholic and Anglican churches. Each in turn reviewed these matters with me, together with all the possibilities and ramifications and without political prejudices. In each instance, the substance of their opinion was the same - 'You have two courses of action, one of which you should follow: 1. Acquaint the public with what you have learned, or 2: Resign your seat in the Legislature for you must either discharge or disclaim your responsibility.' I did not choose to be a quitter.

I then decided to ask the Minister under oath if he had ever accepted any gifts in cash or in kind believing that he would either disclaim any such suggestion or state that he had used certain services and state without reservation





that he had paid immediately for those services.

The answers were most vague and unsatisfactory."

HON. MR. PORTER: Why did you not mention this one particular case? You apparently knew about it. Why did you not ask the question, and secure his explanation? How can a man know what you are talking about, when you are bringing up something which happened six years before? I think we are entitled to an explanation from you.

MR. WREN: Please let me finish.

HON. MR. PORTER: You knew, when you asked that question, that you had in mind this particular situation, which you now bring up, about men working on the hon. Minister's farm. You knew that then?

MR. WREN: I had certain information, but the source of my information was not a source I would like to use. Wait until I finish.

MR. JAMES: It must have been pretty bad.

HON. MR. PORTER: You did not trust your informant?

MR. WREN: This goes on:

"On page 1887 of our evidence, I asked:

'Q. Did you ever have men on your farm who were on the payroll of any company?

'A. Never. Any man I had on my farm I paid myself.



"The Minister a couple of lines later clarified his answer to mean that he or his farm manager had paid men on his farm. This, to me, was a clear statement that no company had ever paid wages to men working on his farm. Due to the amount involved, it would not be easy to forget that these men had been paid over several weeks and as my evidence will show, by cheque of a company."

HON. MR. PORTER: You did not ask. You did not ask the hon. Minister. You held back that information.

MR. WREN: As I say:

" Due to the amount involved, it would not be easy to forget that these men had been paid over several weeks and as my evidence will show, by cheque of a company.

HON. MR. PORTER: You did not ask him.

MR. WREN: He gave a vague answer, which unquestionably should have carried the conviction to the Committee that he never had any work done on his farm for which he did not pay.

MR. COLLINGS: He gave that as an answer.

HON. MR. PORTER: He was not faced with this particular situation. In all fairness, should you not have asked him?



MR. WREN: This goes on:

"The day the transcripts became available (July 29) I proceeded to a Crown Attorney in Toronto's City Hall to enquire about the mechanics of laying an information as to perjury about a highly-placed person in the Government. I was referred to a Justice of the Peace (whose name escapes me), who informed me that he could not accept an information or swear one for me without first examining one or two witnesses. I had neither the funds nor the time to reach necessary witnesses, nor had I any authority known to me to compel their attendance before a Justice of the Peace. Hence I had to temporarily drop the matter."

HON. MR. PORTER: The hon. Minister said he paid for any work he had done.

MR. COLLINGS: You said you spent \$2,500. of your own money?

HON. MR. PORTER: What did you say to the newspapers?

MR. WREN: (Reading):

"Meanwhile, I had the inner conviction that the public should be aware of my activities and should know about these things, and as a result, a story was printed of my unsuccessful attempt to learn the



detail of laying an information and of laying one. I was under the impression (I am not a lawyer) that any citizen could lay in information subject to penalties in the Code for improper charges, and I did feel that the proper place for the matter was before the Courts where political by-play would have no place. I did and do feel that the whole matter of the irregularities of this Department should have been heard before a Royal Commission headed by a Supreme Court Justice, but it has been the will that it be heard by this Committee and this meeting is one result. I will call necessary witnesses in this incident as procedure here allows."

HON. MR. PORTER: You thought that was a fair thing to do under the circumstances?

MR. WREN: I am not a lawyer --

HON. MR. PORTER: You are not a man with any common sense, or any sense of fair play.

MR. OLIVER: I think the hon. Attorney-General (Mr. Porter) has gone entirely too far.

HON. MR. PORTER: I am not going far enough.

MR. OLIVER: Do not give way to your personal feelings. Do try to control yourself the best you can. We know your limitations, but do not let them be so evident





before the Committee.

HON. MR. PORTER: I think there should be a sense of fair play before the Committee.

THE CHAIRMAN: We are giving Mr. Wren a great deal of latitude.

MR. OLIVER: There have been a great number of interruptions, too.

MR. WREN: As I say, I was under the impression that any citizen could lay an information subject to penalties in the Code for improper charges, and I did feel that the proper place for the matter was before the Courts where political by-play would have no place. I did and do feel that the whole matter of the irregularities of this Department should have been heard before a Royal Commission headed by a Supreme Court Justice, but it has been the will that it be heard by this Committee and this meeting is one result.

HON. MR. PORTER: You did not give any information to the Committee.

MR. WREN: Due to the death of the former Chief Engineer of the Department of Highways, of which I was not aware until last night, I do not think there is any point in reading page 9, which had to do with the late Mr. Nelson.

HON. MR. PORTER: I do not see that has anything



to do with this matter at all.

MR. WREN: I was going to call Mr. Nelson as a witness.

HON. MR. PORTER: You only mentioned that after he died. You gave the names of the witnesses you wanted.

MR. WREN: I said, "witnesses named and unnamed".

THE CHAIRMAN: You could not call him before this Committee meeting, even if he were alive.

HON. MR. PORTER: Certainly not; he was under a charge.

MR. WREN: The matters I refer to have nothing to do with the charge laid against him. However, I am prepared to cut that out at the present time.

THE CHAIRMAN: Then you are not making any record of what appears on page 9?

MR. WREN: I will stop after the word "allows" and cut out the rest of it.

THE CHAIRMAN: Then it will not be in the record. Have you anything on page 10?

MR. WREN: I would start again at the bottom of page 9, as follows:

"In conclusion here, I want to say that I have no other aspiration than that of discharging my



responsibility as a member of the Legislature. I will not be condemned for asking these questions for they must be asked and it was not I who caused the Department to become so disrupted. In my opinion, the only way we can deal intelligently with the whole picture is to start at the top and work down, fixing responsibility where it lies. To prosecute other officials now without first making these determinations will, in my mind, create a travesty of justice for which we all might be sorry in future years. If certain officers had been doing something very original in their alleged misdeeds, I might conclude otherwise; our first task is to establish responsibility without which we will reach an impasse. It is difficult indeed to secure information when policymakers remain, before and after. The boss is still the boss.

If, on the other hand, it is the desire of this Legislature and the people concur that we hand down responsibility and consequence from elected representatives, then my place and the place of men and women in Ontario is as far away from political life as one can reach."

THE CHAIRMAN: I want to ask you a question on that, when you conclude.





MR. WREN: Just two more paragraphs:

"I charge that many of the precedents and the policies came from the top and that they who condoned activities by their own actions while holding office should share in the consequences whatever they may be. Without it, we take a serious step away from responsible government.

Once procedure is established, I shall need some time for preparation of my material, since I have just arrived in Toronto and had no facilities at home with which to complete my part of these proceedings."

THE CHAIRMAN: Mr. Wren, you say, in conclusion:

"I have no other aspiration than that of discharging my responsibility as a member of the Legislature."

With respect to the charge with which we are dealing here, it has already been suggested that the evidence of the records of the Company concerned, will show that the hon. Minister of Highways (Mr. Doucett) paid for this labour.

You have made a statement that you consider you have to discharge your responsibility.

If evidence is now presented before this Committee to show that, notwithstanding the fact that



two men worked on this farm, and received cheques from a contracting company, the Company was repaid for that work at approximately the time involved, would that not at once reveal to you that you were in error?

MR. WREN: No, no.

HON. MR. PORTER: You are a most extraordinary person.

MR. WREN: I want to present the case openly, as I know it, and then the defence can proceed as it wishes.

HON. MR. PORTER: You are a member of this Committee, and I assume in your talking about "conscience" and "responsibility", you want to be fair?

MR. WREN: Yes.

HON. MR. PORTER: Suppose the hon. Minister (Mr. Doucett) did make arrangements that he use certain labourers on his farm, for the summer, and reimbursed the Firm upon whose payroll they were, what is wrong with that?

MR. WREN: You are trying to put the cart before the horse.

HON. MR. PORTER: No, I am trying to get down to the simple question of fair play.

MR. WREN: I came down a thousand miles to present the case, as I have it.



HON. MR. PORTER: You have some witnesses to show that certain people worked on the farm. Is that right?

MR. WREN: That is right, yes.

HON. MR. PORTER: And they received cheques from a company which was owned or controlled by some contractor? Is that right?

MR. WREN: Yes.

HON. MR. PORTER: But you have no evidence that the contractor was reimbursed?

MR. WREN: I want to bring that out.

MR. COLLINGS: The hon. member (Mr. Wren) has spoken for nearly half an hour -- just talk. He has not, up to this moment, laid a charge against the hon. Minister (Mr. Doucett). He has not produced the affidavits he is supposed to produce.

I move we hear Miss Frederick, for the record.

HON. MR. PORTER: I think Mr. Wren should explain. I understand he has some witnesses to say they worked on the farm, and they received cheques from a company.

THE CHAIRMAN: Can we not say that is admitted?

MR. HUGHES, Q.C.: Yes, that is admitted.

MR. RICHARDSON, Q.C.: Not from the McFarland



Construction Company. If there is an affidavit, it is perjury, because it says "the McFarland Company".

HON. MR. PORTER: At any rate, the simple point is that six years ago, under certain circumstances, which may be explained, Mr. Wren has some witnesses --

MR. WREN: Which I want to present.

HON. MR. PORTER: Which may be the men who actually worked on the farm.

MR. WREN: They may not be here. I do not know.

HON. MR. PORTER: You do not know what these witnesses will say?

MR. OLIVER: Let us get on with it.

HON. MR. PORTER: Mr. Wren went to the Crown Attorney --

MR. WREN: Are you afraid to have me present that evidence?

HON. MR. PORTER: I want to be fair in this.

MR. WREN: You want to be political. That is all you want.

HON. MR. PORTER: No, I think you have done a mean thing, and I do not like it.

MR. WREN: You have done mean things yourself --

HON. MR. PORTER: No, I have not.

MR. OLIVER: May I say just this one word in





answer to the hon. Attorney-General (Mr. Porter)?

He is dealing with generalities and saying that a construction company paid these men who worked on the farm of the hon. Minister (Mr. Doucett), and he asked, "What is wrong with that?".

I want to make the statement that I think that is wrong.

MR. WREN: That is the crux of the whole thing. You are trying to get away from it.

HON. MR. PORTER: Let us get the explanation of why it was done.

MR. WREN: Let me bring my evidence before the Committee.

HON. MR. PORTER: All it will show is that some men worked on the farm.

MR. WREN: You do not know that.

HON. MR. PORTER: Do you mean to say you are calling witnesses, and do not know what they will say?

MR. WREN: I know precisely what evidence they will bring out.

HON. MR. PORTER: If Mr. Wren is going to substantiate his charge, I think we are entitled to know the purpose of the witnesses. This is not a "fishing expedition".

MR. WREN: I do not think the purpose has



ever been in doubt. They will show that certain men worked on a certain farm at a certain time, and were paid for those services by other than the owner.

THE CHAIRMAN: That is apparently admitted.

MR. HUGHES, Q.C.: Yes, Mr. Chairman.

MR. WREN: I also want to establish that a practice of that kind is a very, very bad practice, and sets a very, very bad example.

MR. JAMES: Oh, nonsense.

MR. WREN: It leaves loop-holes all the way down the line.

HON. MR. PORTER: All your witnesses can say is they worked on the farm.

MR. OLIVER: I think we will learn more from them, than from what you say, Mr. Attorney-General (Mr. Porter).

HON. MR. PORTER: I think we will learn more from the books.

MR. WREN: Mr. Chairman, you challenged me to come down here.

MR. COLLINGS: Oh no, no.

MR. DEMPSEY (Renfrew South): May I say one word, Mr. Chairman?

THE CHAIRMAN: No. You are just one of the public here today.



MR. COLLINGS: Mr. Wren asked for the records. Let us have them.

HON. MR. PORTER: If he thinks his witnesses can add anything to it, we will call them. The best evidence is the books.

MR. OLIVER: Mr. Chairman, the hon. Attorney-General (Mr. Porter) is, shall I say, astute, but really should we not hear the witnesses to support Mr. Wren's claim first, and after that will come whatever you have in the books.

HON. MR. PORTER: All his claim is they worked on the farm. Hon. Mr. Doucett has told us they did work on the farm.

MR. OLIVER: Let us see what kind of work they did, whether they hoed potatoes, or what they did.

MR. WREN: I insist on my right, as a member called upon to produce my evidence, that I be permitted to enter into the record at this time, the evidence I have, to substantiate the statements I have made.

THE CHAIRMAN: You will be permitted to call the witnesses as and when you desire. But I do not think you have the right to call them at this point.

I think there was a motion before the Committee.

MR. GRUMMETT, Q.C.: I have never heard of ✓





a defence being put in before there was a charge.

There are two lawyers appearing before this Committee --

MR. DENT: I am not a lawyer. We are here to substantiate the charge that hon. Mr. Doucett is guilty of perjury, or not, and have nothing to decide whether it is a bad principle or bad practice.

We are here to find out if your witnesses, Mr. Wren, can prove that hon. Mr. Doucett is guilty of perjury.

He paid a contractor for the work that these men did. These men were employed by the contractor, and the hon. Minister (Mr. Doucett) borrowed these two men from the contractor, and he paid the contractor, what the contractor had paid the men.

In the name of God, is there any common sense to the charge that the hon. Minister (Mr. Doucett) committed perjury?

He has made the statement that he paid for all the work ever done on his farm. Naturally, he would pay the McFarland Construction Company, or any other company for these men who were in their employ.

If I get a contractor to loan me two men to do a job on my farm, I would not consider I was guilty of perjury, if I came here and made a statement that I



had paid for everything I had done on my farm.

This is just a lot of damned nonsense; that  
is all it is. X

THE CHAIRMAN: Well, we have had some fairly  
frank expressions of opinion thus far.

MR. OLIVER: There have been.

THE CHAIRMAN: I think it is proper for this  
Committee to hear evidence.

It is clearly indicated it is admitted by  
hon. Mr. Doucett that these men worked on the farm,  
and I think the first thing this Committee wants to  
find out is, who paid for it. Miss Frederick has  
that information. Let her take the stand.

MR. OLIVER: Mr. Chairman, I am a member of  
this Committee, as you are, and I want to hear the  
basis of this charge. I want to hear the witnesses  
say whether or not they worked on the farm of the hon.  
Minister (Mr. Doucett).

HON. MR. PORTER: That is admitted.

MR. OLIVER: Surely, it is taking a dog by  
the hind leg to bring somebody into that box to say  
these men were paid.

Let us start at the right end.

HON. MR. PORTER: The hon. Minister (Mr. Doucett)  
admits that.



MR. OLIVER: We do not know what evidence will come from these witnesses.

MR. WREN: You are afraid to call these witnesses.

HON. MR. PORTER: You can call them later, as far as I am concerned.

MR. OLIVER: Why later? Why not now? You want to get the finish at the start.

THE CHAIRMAN: There is a motion regularly moved and seconded that Miss Frederick be heard now. All in favour of that motion, please so signify.

---The motion was agreed to.

AYE - 7

NAY - 3

THE CHAIRMAN: I declare the motion carried unanimously.

MR. OLIVER: I did not know we had McCarthy here.

HON. MR. PORTER: Well, we have.

MR. COLLINGS: He has been with us all along.

THE CHAIRMAN: We will now hear Miss Frederick.

(page 2156 follows)



MISS CLARE FREDERICK,

Secretary-Treasurer, residing in Picton, Ontario,  
being called and duly sworn, deposes and says:

BY THE CHAIRMAN:

Q Miss Frederick, will you name the companies with which you are connected so that everybody will be aware as to what you are referring?

A I am Secretary-Treasurer of the H. J. McFarland Company, the Robindale Quarries Limited, and the H. J. McFarland Dairy Products Limited.

Q I understand there were two men, Stanley Valant and Joseph Zakrajsek, employed by one of those Companies?

A Yes.

Q Who came out to Canada under certain Government auspices, and took employment with one of those companies?

A That is right.

Q Which company employed them?

A It was the Robindale Quarries Limited. It had nothing to do with the McFarland Construction.

Q What relationship does the Robindale Quarries Limited bear to the McFarland Construction Company?

A It is a separate company entirely, from the H. J. McFarland Construction Limited, and its main work





is in connection with the Canadian Pacific Railway, about 85 percent.

I do not know that at any time the Robindale Quarries Limited had a signed contract with the Department of Highways.

Q Concerning the employment of these two men I have just mentioned, as being employed by the Robindale Quarries Limited; do you know when they were first employed?

A I certainly think they were employed in the early part of 1948.

Q And they were working for that company up until when?

A They were working for the Robindale Quarries Limited to the end of the year, 1948. They were on the payroll of the Robindale Quarries Limited.

Q Throughout that period?

A Yes.

Q Was there any period when they were working on the farm of the hon. George Doucett?

A They certainly were working on the farm of hon. George Doucett.

Q For what period?

A May I refer to my records?

Q Yes, certainly.



A (Referring to document.) For a period from July 16th, 1948, to October 31st, 1948.

Q That applies to both of them?

A It does, sir.

Q Do your records show that they were paid by the Robindale Quarries Limited throughout that period?

A They were paid by the Robindale Quarries Limited.

Q Can you tell us what the rate of pay was?

A The rate of pay was sixty cents per hour, plus vacation pay, and the company also took out group insurance on these men.

May I explain something to you, Mr. Chairman?

Q Yes, please proceed.

A I might be able to do it better in my own words.

These men came out to Canada in 1948. When they came to Canada, they came directly to our employ. They came to Smiths Falls, and we unloaded them, and got clothing for them, because they did not have sufficient clothing.

We had a medical of them --

BY HON. MR. PORTER:

Q They were displaced persons?

A They were displaced persons, yes. This was



the first job they had.

They were then taken to our ballasting cars near Smiths Falls, where we had a contract for ballasting with the Canadian Pacific Railway Company.

These men could not speak English. I think there was one man out of possibly one hundred and fifty who had to act as interpreter.

These men had no Unemployment Insurance. These men had no protection in Canada, whatsoever, with the exception of the Department of Labour promising them work, six months ballasting, and six months logging.

When these men came to us we naturally had to protect them with other firms, by getting Unemployment Insurance books, and ours as well, to apply in our country. They had no protection at all. If they had become ill, they would have been on the country, and the country would have had to look after them.

We approached our Group Insurance Company to waive the three-months' period you normally have to have to get Group Insurance, and requested they allow these men to go on Group Insurance immediately.

This was accepted. The representative of the Insurance Company immediately went to our ballast camp, and put on Group Insurance.

If the men went off our payroll, they would





have lost their Group Insurance and Unemployment Insurance, and for that reason we continued to carry them on our payroll.

There was another reason. We had a Department of Labour representative call every three or four weeks to check, and see how these men were getting along, whether they were in good health, whether they were adaptable to the work, as there had been a number of displaced persons coming to Canada, who had to be returned, because they were not suitable for our country.

BY THE CHAIRMAN:

Q Do you know, yourself, anything about the circumstances surrounding these two men going to hon. Mr. Doucett's farm?

A I think, gentlemen - it is 6 years ago, and I think if you will all think back you will remember headlines -- notices were in the Telegram and the Star papers -- where it was stated that anyone who could help farmers, please to do so.

I think you will remember there were car loads and truck loads of school children, taken out from the City of Toronto. Labour was very scarce.

I think a great many who had done the labouring, were overseas fighting for our country.

We were all asked to do everything we possibly



could, to go out and help the farmers get the crops in.

Honourable Mr. Doucett was unable to get help. He approached us, and asked if he could obtain two men to help him with his crop.

We went ahead and helped him, the same as we would anybody else.

MR. WREN: The war was over in 1948.

HON. MR. PORTER: But there was still a farm shortage.

MR. GRUMMETT, Q.C.: She said, "The men were fighting for their country".

MR. BECKETT, Q.C.: They had not been returned.

BY THE CHAIRMAN:

Q That was in 1948?

A It certainly was.

Q They were then put on hon. Mr. Doucett's farm?

A They were.

Q You told us what their rate of pay was?

A Yes.

Q Will your records show how they were paid, and any payments from hon. Mr. Doucett, or anybody on his behalf?

A I lost all my records -- remember, this was 6 years ago -- I moved to a new office since then, and I had a flood in my basement, where a lot of the files were



stored, so it was difficult to go back and get the records.

I have a letter here from the Insurance Company stating it is true about the flood, if you do not want to believe my word.

I have a record which shows their rate of pay, their vacation pay, the total wages, and the taxes deducted, and the payments for Unemployment Insurance and board, when they were with our firm. We did not deduct for the board when they were away from there.

These (indicating) are the cards (handing documents to Chairman).

You will see there the break over the period I have outlined, where no board was deducted. That was for the period they were with hon. Mr. Doucett.

Q Where is the board item? Is it the one which has no heading on it?

A You are correct, sir. This (indicating) is the board; there (indicating) are "Miscellaneous Items", like the clothing we got for them.

THE CHAIRMAN: These two cards which are marked "Miscellaneous Information", will be filed as Exhibits 58 (a) and 58 (b); 58 (a) will be Valant's card and 58 (b) being that of Zakrajsek, produced by Miss Frederick from the records of the Robindale Quarries Limited.



EXHIBIT NO. 58 (a): Record  
card of one Valant, as  
produced and identified  
by the Witness,  
Frederick

EXHIBIT NO. 58 (b): Record  
card of one Zakrajsek, as  
produced and identified  
by the Witness,  
Frederick.

BY THE CHAIRMAN:

Q Just looking at these two cards (indicating)  
you show that on August 1st --

A I beg your pardon. It is from July 16th.  
That was a deduction (indicating) when we bought their  
clothing.

Q Perhaps you had better explain that yourself.  
You say there is a period which indicates there was no  
board. deducted?

A That is correct. This column (indicating)  
is not board. It was used for miscellaneous deductions,  
such as clothing.

July 16th was the first pay, and that was the  
deduction for clothing. On July 16th, there is no  
deduction on that card at all.

That (indicating) carries through to October  
31st.

Q To October 31st?

A Yes.





Q Nineteen Forty-eight?

A Yes.

Q Then they started the full amount of board again?

A They came back to us, and continued working for the Robindale Quarries Limited.

BY MR. JANES:

Q I think you stated that at the same time you were helping other farmers?

A We helped in every way we could help.

MR. WREN: May I ask a question, Mr. Chairman, or shall I wait until later?

THE CHAIRMAN: It might be better to get the complete evidence before starting the cross-examination.

MR. WREN: Then you will tell me when I may proceed?

THE CHAIRMAN: Yes.

BY THE CHAIRMAN:

Q Having shown the cards, and shown there was a period when these men were paid everything except the deduction for board --

A That is right.

Q It was during that period you say they were working on the farm of hon. Mr. Doucett?

A Yes.



Q Were these payments ever reimbursed to your company?

A They certainly were. Honourable Mr. Doucett repaid Robindale Quarries Limited for every cent we had paid out.

He paid the gross wages, paid the vacation pay, paid for the Unemployment Insurance benefits, which would have been paid by the Robindale Quarries Limited.

Q Will you show your records in support of that?

A What I have here (indicating), Mr. Chairman, is what I call a "Cash Book". This cash book is a register of every cheque which was issued by Robindale Quarries Limited, which is issued monthly, and shows every deposit which is received monthly, and which goes to the bank.

This (indicating) has to be checked off and balanced with the bank statement, to prove the bank is not charging us for somebody else's cheques.

BY THE CHAIRMAN:

Q You are producing a sheet here --

A I will have to explain this to you (indicating).

Q This (indicating) is a sheet from your Cash Book?

A It is called a "Cash Book".

Q Of the Robindale Quarries Limited?



A        The Robindale Quarries Limited, for December, 1948.

THE CHAIRMAN:    We will mark that as Exhibit No. 59.

EXHIBIT NO. 59:    Extract from  
Cash Book as produced and  
identified by the Witness,  
Frederick.

BY THE CHAIRMAN:

Q        Will you draw the attention of the Committee to any items which you think are important to this matter?

A        This (indicating) is a listing of all deposits which went through the Robindale Quarries Limited's bank account in December, 1948.

          In this debit column (indicating) is shown the total on the day it was deposited, which, in this case, (indicating) was December 13th, 1948.

Q        It shows the deposit for that day was \$2,526.96.

A        That is broken down and made up of two items which were deposited in this total amount.

Q        Is that shown on the same exhibit?

A        It is shown right here (indicating).

Q        The two sheets constitute the exhibit?

A        Yes.    They are actually one and the same sheet, because it is carried forward.

          If you put the sheets together, you can follow





it better, this way.

This (indicating) is the total deposit of December 13th, 1948, amounting to \$2,526.96.

That represents a deposit of \$1,087.83 from the hon. George Doucett, and another deposit of \$1,439.13 from another firm.

Q And the total of those two --

A Equals the amount of \$2,526.96.

BY MR. OLIVER:

Q Why would that be put in a separate deposit?

A You do not do it that way. We do not do that in bookkeeping. You have to follow through and see the broken-down amounts.

BY THE CHAIRMAN:

Q Let us look at this one (indicating), the Canadian Pacific Railway.

A You follow that from here (indicating). There was a deposit of \$12,867.67, a Canadian Pacific deposit of \$15,982.47, and those (indicating) added together give you that amount there (indicating).

Q Would you follow through, with the name here (indicating) and the amount there?

It is the record of total deposits. Will you please check that with the bank statement.

A That (indicating) is my original audited



statement, the original bank statement I received.

Q You are producing these sheets from a portfolio --

A This (indicating) is from my cash book, which is a record of the bank account of the Robindale Quarries Limited, for 1948.

I have taken the sheets out to give you those where the payment is shown, as received from the hon. Mr. Doucett.

BY MR. BECKETT, Q.C.:

Q That amount of \$1,087.00 would represent --

A The amount of \$1,087.83 is the amount hon. Mr. Doucett paid us, covering the wages we paid the men, plus Unemployment Insurance, plus vacation pay, plus Workmen's Compensation payments.

Q And for the period you have mentioned?

A Yes.

BY THE CHAIRMAN:

Q And in December 1948 - December 13th - this payment was made for services covering the period from the 15th of July to the end of October?

A I think you have the cards over there (indicating).

BY MR. BECKETT, Q.C.:

Q July 16th, 1948, to October 31st, 1948?

A Yes, July 16th, 1948, to October 31st, 1948.



BY THE CHAIRMAN:

Q Can you reconcile the \$1,087.00 to the exact amount in relation to the pay cheques which went out to these gentlemen?

A Mr. Chairman, naturally I have not all of my own invoices. They were destroyed in the flood, or in moving.

By taking the gross amount of the wages, the gross amount of vacation pay, and the gross amount of Unemployment Insurance -- I would guess at the rate I charged hon. Mr. Doucett for Workmen's Compensation -- in that time, I would not have my assessment from the Workmen's Compensation, so I would not know exactly what it would be. But, taking 3 percent, it comes very close.

Q What wages did Robindale Quarries Limited pay these men? Have you the total amount over that period?

A I think I have.

Q Take each man separately. Take Valant first.

A Shall I list them for you?

Q Yes, if you please.

A The payroll to Valant -- \$82.20.

Q For what period?

A July 16th to July 31st.

Q \$82.20?

A \$82.20.



I would suggest that you make this in three columns, and it might be easier; one for the gross wages, one for vacation pay, and one for Unemployment Insurance.

The gross wage for the period July 16th to July 31st, 1948 was \$82.20; the vacation pay was \$1.64, and the Unemployment Insurance would be 84 cents.

August 1st to 15th -- those are the payroll periods; it was on a bi-monthly basis -- the gross wages were \$68.10; vacation pay \$1.36; Unemployment Insurance 72 cents.

August 16th to August 31st, 1948, gross wages \$81.30; vacation pay \$1.63; Unemployment Insurance 84 cents.

September 1st to September 15th, 1948, gross wages \$75.60; vacation pay \$1.51; Unemployment Insurance 78 cents.

Let us get this correctly. I think there is an error there. I have been giving you Zakrajsek's card. That was the first one.

Q Oh, this (indicating) is Zakrajsek's?

A Yes. What is the last payroll date you have?

Q September 16th to September 30th, is the one we want.

A Gross wages \$72.00; vacation pay \$1.44; Unemployment Insurance 78 cents.





October 1st to October 15th, gross wages \$69.00; vacation pay \$1.38; Unemployment Insurance 78 cents.

October 16th to October 31st, 1948, the gross wages \$65.40; vacation pay \$1.31; Unemployment Insurance would be equivalent to 66 cents.

The reason why I say "would be equivalent" is that amount is not marked in. I say that for this reason; these cards are only kept to keep the gross record of the vacation pay paid each man, in order that the T-4 slip may be made out. So we did not pay much attention to the deductions. We marked them on the cards, if we had time.

Q The gross wages according to my figures, amounts to \$513.60, plus these other figures.

We might as well get all the totals. \$10.27 for vacation pay; \$5.40 for Unemployment Insurance, so if we take them altogether, we get a total of \$529.27 for Mr. Zakrajsek?

A That is correct.

Q Now, we will have the other one, Valant.

I understand Mr. Zakrajsek is in the room.

MR. ZAKRAJSEK: Yes.

THE CHAIRMAN: Is Mr. Valant in the room?

MR. VALANT: Yes.



BY THE CHAIRMAN:

Q All right. Now, for Mr. Valant, let us have the same particulars there.

A For Mr. Valant, July 16th to July 31st, 1948, gross wages \$82.20; vacation pay \$1.64; Unemployment Insurance 84 cents.

August 1st to August 15th, 1948, gross wages \$68.10; vacation pay \$1.56; Unemployment Insurance 72 cents.

August 16th to August 31st, gross wages \$81.30; vacation pay \$1.63; Unemployment Insurance 84 cents.

September 1st to September 15th, 1948, gross wages \$75.61; vacation pay \$1.41; Unemployment Insurance 78 cents.

September 16th to September 30th, 1948, gross wages \$72.00; vacation pay \$1.44; Unemployment Insurance 78 cents.

October 1st to October 15th, 1948, gross wages \$69.00; vacation pay \$1.38; Unemployment Insurance 78 cents.

October 16th to October 31st, the gross wages \$62.10; vacation pay \$1.24; Unemployment Insurance would be equivalent to 66 cents.

Q Now, to total that up; the gross wages amount to \$510.30?



A Yes.

Q The vacation pay amounts to \$10.10?

A Yes.

Q And the Unemployment Insurance amounts to \$5.30?

A That is correct.

Q That totals \$525.70?

A Yes.

Q If we take the \$529.27 and the \$525.70, we get a total of \$1,054.97?

A There is a little error somewhere. I think it adds up to \$1,055.07.

BY MR. COLLINGS:

Q That is what I have. There is a difference there of 10 cents.

A I also charged hon. Mr. Doucett for an allowance for Workmen's Compensation.

What I charged him 6 years ago I cannot tell you now. That has been added.

BY THE CHAIRMAN:

Q At about a 3 percent. rate?

A About a 3 percent. rate, yes. I think I would charge that at that time, because my assessment was around that amount.

Q If you added about \$30.00, you would get





somewhere within a dollar or so?

A That is right.

Q That is the way you say it is made up?

A Yes.

I might also remark, Mr. Chairman, if I may, that on these cash book sheets (indicating) the marks which are in green are my auditor's check marks, which would be made at the time they were closing my year, ended December 31, 1948.

Also attached to the second sheet is the original bank statement I received for the Robindale Quarries Limited for the year ended December 31, 1948.

Also this (indicating) is my break-down as to what cheques were outstanding, which had not come in to be paid.

Q When you say "bank account", you are referring to the statement of account from the Canadian Bank of Commerce, for Robindale Quarries Limited --

A Yes, Picton, Ontario.

Q It is marked at the top, "November, 1948", and the balance at the bottom "December 31st, 1948". In that bank statement will you pick out the deposit of the 13th of December, 1948?

A The bank does not mark the date, because it is done with machines.



Q It shows the figure, "\$2,526.96"?

A That is right.

Q So there would appear to be no question but what that amount of money went into the bank, assuming that total is correct?

A That is right.

BY MR. OLIVER:

Q To what was that credited in your accounts?

A It was credited to "accounts receivable." It was posted from my cash book as a payment of accounts receivable.

BY THE CHAIRMAN:

Q Were you personally present when this money was paid?

A Yes, I was.

Q You know, of your own knowledge, that this money was for the purpose you mentioned, and came from hon. Mr. Doucett?

A I do.

BY MR. OLIVER:

Q In what form was it paid?

A I have tried to recall it, and I am positive it was in the form of cash, but I would not want to swear to it.

During that time, approximately \$40 million



has gone through my hands in deposits, so it would be hard for me to recall an item of \$1,000., back that far.

BY MR. WREN:

Q Assuming it was cash, would you not write a receipt for it?

A I cannot recall that.

Q Is that your standard practise?

A It is the standard practise, if it is cash, to give receipts.

Q Can you produce a copy of the receipt?

A No. I am lucky to have what I have here. X

As I stated, we moved, and we had a flood, and if you would like to see the letter I have from the Insurance Company, where I tried to claim for my records destroyed in the flood, I will be glad to show it to you. I have it here (indicating).

Q Would you not store this Cash Book?

A No. All my records are in the cash book and the entries in the cash book must be supported by some book of original entry.

I have told you I have no other books except what is here.

Q You did not store --

A I did store them, but I had a flood in my basement, which came up at least that high (indicating)









Q And you should have issued a receipt?

A I should have issued a receipt. I cannot recall issuing a receipt. I cannot remember whether I issued a receipt or not, but I would think, in the normal run of affairs of the business, I would.

MR. WREN: Are you through, Mr. Chairman?

BY THE CHAIRMAN:

Q Have you anything else you want to produce, in relation to this? I understand this is the only thing.

A I have the T-4's, if you would like to see them.

Q It may be as well to have them.

A To show the Income Tax Board that they were paid by the Robindale Quarries Limited.

In fact, I have something better; I have a letter verifying it from the Income Tax Board.

BY MR. OLIVER:

Q Have you the forms about which you spoke?

A Yes. Just a minute, and I will get them.

I do not think it is necessary for you to keep this whole file, Mr. Chairman, (indicating). You never can tell, I might need it again, but we can take off the forms for the gentlemen listed here.



BY THE CHAIRMAN:

Q You are now producing a copy of the form --

A A copy of the T-4.

Q For the year 1948?

A Yes.

Q Turned in by the Robindale Quarries Limited  
to the Income Tax Department at Ottawa?

A Yes.

Q Will you read what the return shows?

A Robindale Quarries Limited; Unemployment  
Insurance Book O-88173, Mr. 'Joe' Zakrajsek, Three  
Rivers, Quebec", and it shows he worked seven and one-  
quarter months.

Q Do you want to file it for the moment?

MR. RICHARDSON, Q.C.: Yes, Mr. Chairman,  
we can always get it back.

BY THE CHAIRMAN:

Q These show the Income Tax deductions made  
for the year 1948, with respect to both of these people?

A That is correct, sir.

THE CHAIRMAN: That may be filed.

EXHIBIT NO. 60: Income Tax  
forms re Valant and  
Zakrajsek, as produced and  
identified by the Witness,  
Frederick.



BY THE CHAIRMAN:

Q I see it is marked here "Seven and one-quarter months"?

A That would be the period they were on our payroll, the payroll of the Robindale Quarries Limited.

Q They are here (indicating) for both men?

A Yes.

Q And for Valant, it is the same period, seven and one-quarter months?

A Yes.

Q Do you recall how the time of the employees was calculated?

A If you take the cards, you will get it for that period of time.

Q December 15th was the date they left?

A Yes.

Q And they started on May 1st?

A Yes.

BY MR. OLIVER:

Q I am a little vague, Miss Frederick. What does that go to show?

THE CHAIRMAN: I think it goes to show that for the period in question these men were on the payroll of the Robindale Quarries Limited, and their taxes were deducted and paid to the Income Tax Department. It may





not have any further relevancy.

BY THE CHAIRMAN:

Q Have you anything else?

A No I have not, sir. That is the full record I have left, and I have tried to explain it to you, the best way I can.

Q Was there any other time after 1948, when any men employed by the Robindale Quarries Limited were working for the hon. Mr. Doucett, on his farm?

A They were not, to my knowledge.

BY MR. OLIVER:

Q Where there any others in 1948?

A No, there were not, to my knowledge.

BY THE CHAIRMAN:

Q And none since, to your knowledge?

A That is right.

MR. BECKETT, Q.C.: That was the only time, Mr. Chairman.

BY THE CHAIRMAN:

Q That was the only time that any men who were in the employ of the Robindale Quarries Limited ever worked on the farm of the hon. Mr. Doucett?

A That is correct.

Q Would you say the same thing applied to any other company in which Mr. McFarland was interested?



A I would, certainly, sir.

THE CHAIRMAN: Very well, Mr. Wren, you may proceed.

BY MR. WREN:

Q Miss Frederick, would you tell me, for the record, the names of the principal officers of the H. J. McFarland Company?

A Mr. Wren, I had representatives hired by the Government in my office for approximately two and one-half weeks this Spring, and that is the first thing they asked for, and the first thing they looked for.

You are welcome to go to these files, and see who they are.

Q I want to have it on the record of this Committee -- the names of the President, and Vice-President.

A I will be glad to give them to you. The President of the H. J. McFarland Construction Company is Mr. H. J. McFarland, Sr., the Vice-President is H. J. McFarland, Jr.; the Secretary-Treasurer of the H. J. McFarland Construction Company is myself, Miss Frederick.

The Director is Arthur McFarland, a brother



of H. J. McFarland --

Q That is four people?

A That is correct.

Q Who are the principal officers of the Robindale Quarries Limited?

A They are all the same, with the exception of one of our Superintendents, Mr. Welsh.

Q Would you name them individually, for the Robindale Quarries Limited, in the same order, president, vice-president, secretary-treasurer and so forth.

A The President of the Robindale Quarries Limited is H. J. McFarland;<sup>Sr.</sup> the Vice-President of the Robindale Quarries Limited is H. J. McFarland, Jr.; the Secretary is myself, Miss Frederick. Then there is the Superintendent, Mr. "Jack" Welsh.

Q So there are four people holding office in that company?

A Yes.

Q The other was a dairy products company?

A Yes. I will be glad to give that to you, if you like.

Q The H. J. McFarland Construction Company, and the Robindale Quarries Limited, with the exception of one gentleman, are the same officers?

A Yes.



Q When these men, of whom you were speaking a little while ago, were working on the farm of hon. Mr. Doucett, between July 16th and October 31st, 1948, you state they were paid by the Robindale Quarries Limited, and paid sixty cents per hour, plus vacation pay.

How were they paid?

A By cheque.

Q From the Robindale Quarries Limited?

A That is correct.

Q There was no cash?

A No cash?

Q No cash paid to these men at all?

A No. We do not pay in cash.

Q How do they pick up their cheques? Are they mailed or do you hand them to the men, and they sign for them?

A The cheques are mailed to the jobs, wherever they are employed, and each timekeeper on the job delivers the cheques to the men.

Q Can you recall how these men were paid? Were these cheques mailed to them at the farm, or did they come to the office and pick them up?

A As far as I can recall, they were not mailed to the farm whatsoever. They were mailed to our jobs.





Q These cards (indicating), Miss Frederick, represent the wage record?

A It is the earnings record of the gross wages and vacation pay, in order that they will balance with our payroll, as at the end of the year, and the T-4's made out.

Q Do any of the auditors sign them?

A No, they do not check them. They have to balance in the Income Tax Board. They check them.

Q When were the entries made on these cards (indicating)?

A When the payrolls were posted. Two at a time might be posted. They were not written by me; they were written by a girl who has not been with me since 1950.

Q Nevertheless, you were in charge?

A That is right.

Q Would you say in this period from July 16th on, for this card of Zakrajsek's, that amount, as the payroll, was made up ~~by~~ -monthly.

A No, they would not be made when the payroll was made out. They could have been posted two or three payrolls at one time.

Q You entered the period from July 16th, 1948 to December 31st, 1948, all at one time?



A I cannot say that, and I do not know how you can say that.

Q I am asking you. Were they all made out at one time?

A I cannot tell you.

Q Does the appearance of the ink on that card give you any inkling --

A What does that mean?

Q That is what I want to know. When were they made?

A Before February, 1949, so they could be turned in to the Income Tax Board, because we had to have that information for the Income Tax Board.

Q You are prepared to swear --

A I am swearing to that.

Q You realize you are swearing?

A I realize that, and if you had any knowledge of the T-4's, you know you would have to have that before February the following year, so you can put that record on the T-4's, for the Income Tax Board.

Q You realize you are swearing that these entries were made during the year 1948?

A I realize I am swearing that those entries were made during the year 1948.

MR. WREN: That is fine. That is an answer to my question.



BY MR. WREN:

Q In regard to this work these men did on the farm of hon. Mr. Doucett, in answer to Mr. Oliver's question, you said the receipt of the money was charged to Accounts Receivable?

A Yes.

Q To what account was the Accounts Receivable charged?

A I cannot tell you. I have not got that record.

Q You would not be able to recall? What would your practise be -- let us put it that way -- when you receive money for a job?

A If it was work in connection with road construction, it would go under "Road Construction". If it was for ballasting, it would go under "Ballasting", and if it was for a crushing job, it would go under "Crushing".

Q You have no record --

A No, I have given the records I have.

Q You have no record to show?

A I have not.

Q So you do not know to what it was charged?

A No.

Q In 1948, was farming occupation an insurable



occupation, under the Unemployment Insurance Act?

A They never have been, have they?

Q I am asking you.

A I don't think they ever have been.

Q These Unemployment books were kept up-to-date while they were employed on farm work, as farm labourers?

A Yes.

Q I want to ask this question again, because it is very, very important, and we will go back to it at a later date, when our witnesses are called --

A Mr. Wren, may I speak a moment? I do not like the remark the way you stated it. You asked if we continued to pay the men Unemployment Insurance when they were on farm work?

It does not matter to me what type of work a man is doing, if he is still on our payroll, he gets the Unemployment Insurance. I do not care whether he is doing farm work, or construction, or crushing, or what it is.

I do not class it as "Wage Account Receivable".

Q Let us put it this way, to make it a little more simple; take a given period from the 1st to the 15th of any month; when these men were issued their cheques, to what did you charge the cheques?





A To payroll expenditures.

Q And to what job was that payroll expenditure charged?

A All jobs on which men are employed, are charged directly to "wages".

Q The wages have to be distributed --

HON. MR. PORTER: Are you giving the evidence, Mr. Wren, or asking questions?

MR. WREN: I am asking questions.

THE WITNESS: I have no distribution in any of our firms, in my general ledger. It is all under "wages". They are all grouped under "general wages". The ones broken down are management salaries, truckers, and "other salaries."

BY MR. WREN:

Q If you have three jobs going at the same time in different parts of the Province, would you still charge your payroll into a Payroll Account?

A Yes.

Q You do not break it down by jobs?

A No. It all goes to expenditure for wages account.

Q Just wages alone?

A Yes.

Q Now, just one last question, and I want to



repeat that again, because I want it very clear on the record, so there will be no misunderstanding.

First of all, you do not recall whether you wrote a receipt for that cash?

A No, I do not. May I ask you a question?

Q No.

A All I can say, Mr. Wren, is if you had handled the amount of money I have handled in connection with the numerous business of Mr. McFarland for the last 6 years, would you, yourself, really think you could recall one deposit only, and whether it was cash or cheques?

Q To answer that, I would have my receipt books available.

A With the amount of business we carry on, and the amount of paper work we have to have to-day, you would have to have a building which would compare in size with the Parliament Building, to keep everything.

Q Then you have no record of any kind -- I want to make this very, very clear -- to show that the money was received --

HON. MR. PORTER: She has just said that.

MR. WREN: Why do you not wait until I finish my question?

BY MR. WREN:

Q -- that the money was received, entered into



the receipt book --

A        You have my receipt book.

Q        That (indicating) is a cash book.

A        It is my receipt book.    It is the record  
of all moneys received, and is a record of all moneys  
paid out monthly.

BY MR. COLLINGS:

Q        And audited, Miss Frederick?

A        That is correct.

BY MR. GRUMMETT, Q.C.:

Q        These amounts (indicating) were paid by  
cheques?

A        Yes.

Q        Have you the cheques?

A        No.    I have not my old cheques.

Q        Were they lost in the flood, too?

A        Yes.

Q        Those cheques would have shown the distribu-  
tion of the work, would they not?    That is, you would  
mark on the cheque whether the men were working on  
construction work, or farm work, or doing some ballast-  
ing work?

A        No.

Q        You did not enter any particulars on the  
cheques?



A No, not Robindale Quarries Limited.

Just to make it clear to you; Robindale Quarries Limited is engaged in one type of operation, crushed rock and ballast work, and the distribution would not amount to anything for each job.

Q What I cannot reconcile is the fact that you said you did not separate the moneys paid. I would think, as a bookkeeper, --

A Just a minute --

Q Let me ask you this question. As the bookkeeper for the Robindale Quarries Limited, would you not separate the moneys paid for different jobs? How do you know whether you are losing money on one job, or making money?

A I have just answered that question.

Q How?

A Robindale Quarries Limited, in 1948, consisted of two operations, one, crushed rock and the other ballasting.

Q Apparently, there was a little bit of farm work, was there not?

A (No audible answer)

BY MR. WREN:

Q Did I understand you to say that the main operation of the Robindale Quarries Limited is crushing rock?





When the rock is crushed, it goes into ballast, and goes out to whoever may buy it.

A That is right.

Q So your wages go into only crushing rock?

A That is right, and ballast.

It is not like a construction company where you may have three contracts with the Department of Highways, six contracts with the Mortgage and Housing Corporation, and seven contracts for other construction, where you want to break that down.

BY MR. OLIVER:

Q Will you show me when these men left the one job, and went to hon. Mr. Doucett's?

A It is shown by the break in the board. The board will not show at the camps.

Q Then, when they ceased to be employed on the farm job, were they ballasting?

A Maybe I misunderstand you. Would you repeat the question?

Q I want to know if you could make it clear to the Committee, by pointing out when these men terminated this firm's work-- whatever they were doing -- before they went to hon. Mr. Doucett, and when they went to Mr. Doucett's farm? Is that clear?

A That is clear.



Q Will you make it clear to the Committee?

A When a man is with us, his board will show in our boarding camps, and we charge him so much per week, and the deductions are shown on the cards.

When they left our boarding house, they were not charged for any board, because they were not boarding.

Do you understand?

BY MR. WREN:

Q The work they were doing on the farm was just charged to general work of the Robindale Quarries Limited?

A That is correct, Mr. Wren.

THE CHAIRMAN: Are there any further questions to ask of Miss Frederick? (No response)

THE CHAIRMAN: If not, thank you very much, Miss Frederick, for coming.

---- The Witness retired.

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THE CHAIRMAN: We will adjourn until 2.30 this afternoon.

- - - - -

---- Whereupon at 1.02 p.m., the further proceedings of this Committee adjourned until this afternoon at 2.30 o'clock.



A F T E R N O O N   S E S S I O N

Toronto, Ontario,  
Wednesday, September 8th, 1954,  
2:35 o'clock, p.m.

- - - - -

The further proceedings of this Committee  
reconvened pursuant to adjournment.

P R E S E N T :

Mr. A. Kelso Roberts, Q.C., Chairman,  
Presiding.

Messrs. Collings,

Herbert,

Beckett, Q.C.,

Dent,

Janes,

Oliver,

Wren,

Grummett, Q.C.,

Hon. Mr. Mapledoram,

Hon. Mr. Porter, Q.C.,

Mr. L. R. MacTavish, Q.C., Committee Counsel,

Mr. V. J. Johnston, Secretary.

- - - - -

A P P E A R A N C E S :

Mr. R. G. Lewis, Assistant Clerk, Legislative  
Assembly.



Mr. R. A. Hughes, Q.C., For Hon.Mr.Doucett,

Mr. E. A. Richardson, Q.C., For McFarland  
Construction Company and  
Mr. McFarland.

Mr. Peter Wright, Q.C., For the Hon.Mr.Winters,  
Ottawa.

Mr. Charles Appelby, )

Mr. H. J. McFarland, )

Mr. Clarence McHugh, ) Appearing by virtue of

Mr. Leon Kossar, ) Speaker's warrants, duly

Mr. Joseph Zakrajsek ) issued and served.

Mr. Stanley Valant )

Mr. Edward T. Wride, )

Mr. H. A. Cotnam, F.C.A. Provincial Auditor.

Mr. George Spence Assistant Provincial  
Auditor.

Hon. G. H. Doucett, Minister, Department of  
Highways.

Mr. J. D. Millar, Deputy Minister,  
Department of Public Works

Mr. M. A. Elson Deputy Minister,  
Department of Highways.

Mr. Fred Duncan, For the Liberal Party.

And other representatives of the Department.

- - - - -

THE CHAIRMAN: Gentlemen, we will call the  
meeting to order.

The purpose of the meeting is well known to





everybody. We heard evidence this morning in relation to this question on which Mr. Wren's charges were based.

Certain pages of the evidence have been referred to, particularly pages 1886 and 1887.

Is there anything further arising out of that, to be submitted in the way of evidence?

MR. DENT: I would suggest, Mr. Chairman, that from the evidence submitted this morning, we are quite satisfied, as a Committee, that hon. Mr. Doucett is exonerated. Let us get on with the other business of the Committee, and dismiss this charge right now.

In my opinion, it is just repeating what we have heard in the House, and read in the newspapers, and I would suggest this charge be dismissed right now.

HON. MR. PORTER: In my view, they are the same. There is no question about it, whatsoever.

MR. WREN: There are some witnesses to be heard.

HON. MR. PORTER: Have you any witnesses who will, in any way, disprove what Miss Frederick has said?

MR. WREN: For the time being, I am through cross-examining Miss Frederick.

HON. MR. PORTER: Have you any witnesses who will testify, in any way, against her evidence?

MR. WREN: Yes.



HON. MR. PORTER: Who?

MR. WREN: The hon. Minister, Mr. Doucett.

HON. MR. PORTER: He is not your witness.

He gave his evidence, and he has said that he, at no time, got any work done on that farm for which he did not pay.

What on earth do you want hon. Mr. Doucett again for? I think that is nonsense.

MR. WREN: I want hon. Mr. Doucett to show the source of the funds.

HON. MR. PORTER: Oh; the whole question was you charged he had men working on his farm, and that he did not pay for them, and it was proven this morning he did pay for them.

MR. WREN: On page 1887, he said --

HON. MR. PORTER: You did not face him with this particular incident which occurred six years ago.

I will not put up with any more of this nonsense.

MR. WREN: The question was:

"Q. Did you ever have men on your farm who were on the payroll of any company?

"A. Never. Any men I had on my farm I paid myself.

"Q. You have paid it yourself?

"A. Yes.



"Q. And they have not been paid by any other person?

"A. No; paid by my farm manager."

HON. MR. PORTER: You sat there and did not ask him about this incident of six years ago, in 1948.

MR. WREN: I am bringing evidence before this Committee --

HON. MR. PORTER: You did not ask him?

MR. WREN: I am bringing evidence before this Committee which I did not have corroborated until the 29th day of July, but which I had in my possession.

HON. MR. PORTER: You had that information in June, because you gave the names of the witnesses to the Crown, before that.

MR. WREN: On the 29th was the first I had statements satisfactory to me --

HON. MR. PORTER: They were not satisfactory to you before that?

MR. WREN: No. I wanted corroboration.

HON. MR. PORTER: You had the names of all the witnesses you have asked to be called here today. You turned it over to the Crown before the meeting in June of this year, and never raised that question at all, when you were questioning hon. Mr. Doucett.

MR. WREN: I asked him the question, expecting a straightforward and proper answer.



HON. MR. PORTER: And you got a straight-forward answer.

If you had asked him about the incident in 1948, you would have got an answer.

MR. WREN: If I had paid out \$1,000. in cash --

MR. COLLINGS: There is the answer (indicating) on page 1886. It reads:

"Q. Have they done any work for you?

"A. Any work I have had done, I have paid for.

That is quite legitimate."

MR. WREN: And on page 1887, I pursue it.

HON. MR. PORTER: I do not propose to sit here and go through a lot of nonsense. Is it to the satisfaction of the Committee, that payment was made?

We have the books here, and have heard an independent witness, who swears she actually saw the payment made.

MR. WREN: Furthermore, I would like to have these cards (indicating) particularly checked by the medico-legal expert of the Royal Canadian Mounted Police, to determine how old the writing is.

HON. MR. PORTER: You made this charge, and you cannot prove it. It has been thrown back at you.

MR. WREN: It has not. You are not willing





to listen to any of my witnesses.

THE CHAIRMAN: There are two names here of men who worked on the farm.

It is clear, from the evidence given this morning, that these men did work on the farm for a period of three and one-half months, and they were paid by the Robindale Quarries Limited for whom they were working, and the amount paid by the Robindale Quarries Limited was repaid to it by hon. Mr. Doucett, on or about the 13th of December, 1948.

These two men who worked on the farm; I presume, if they went in the box, they would simply say they worked there. There would not be anything added by way of evidence.

MR. COLLINGS: Has Mr. Wren any evidence to disprove what was said this morning?

MR. WREN: I want to put the evidence by witnesses on the record.

HON. MR. PORTER: What witnesses?

THE CHAIRMAN: I was speaking of the two men who worked on the farm.

MR. WREN: I ask for one witness, and you deny me the right to call him.

THE CHAIRMAN: The two men are here by virtue of the Speaker's warrants, issued at your request.



I say that any evidence they can give will not add anything to the net result.

MR. OLIVER: How do you know?

MR. WREN: You are assuming all this.

THE CHAIRMAN: Do you want these men to come here?

MR. WREN: Yes, but I think I might have the privilege of calling my witnesses in my own way.

THE CHAIRMAN: You will not call hon. Mr. Doucett. I can assure you of that. Whether hon. Mr. Doucett comes before the Committee is his business, not yours.

HON. MR. PORTER: I think it would be unconscionable to ask the hon. Minister to come before the Committee, in view of the smears made against him, and in the face of the conclusive evidence produced by an independent witness, and in view of the evidence the hon. Minister has given before.

MR. WREN: There is no doubt the men worked on that farm and were paid at a later date.

I say it is an exceptionally bad example, and not in keeping with the statement made under oath.

THE CHAIRMAN: That may be a matter of opinion.

As far as the evidence shows, Valant and



Zakrajsek were both there. They are also both here today. I cannot, personally, see where their evidence will add anything to the result.

They are here. Do you want either one of them in the box?

MR. WREN: I want both of them.

HON. MR. PORTER: Let us get this clear.

Mr. Wren says he is convinced from the evidence of Miss Frederick that hon.Mr. Doucett did pay for the work these men did.

MR. WREN: That is the evidence so far.

HON.MR. PORTER: Have you any evidence do the contrary? You are making the charge. You are guilty of the smear. Have you any evidence to the contrary?

MR. WREN: I want the witnesses called. I want the evidence in plain English as to where the money came from, to repay this Company.

THE CHAIRMAN: Mr. Valant is here, but is there any conceivable need for him to take the witness stand? Is there anything he can add to what has been said today? If there is, you may call him. You have your choice. Make up your mind.

MR. WREN: Yes, I want to call Mr. Zakrajsek first.



J O S E P H   Z A K R A J S E K,

Labourer, residing in Cobourg, Ontario, a witness  
being called and duly sworn, deposes and says:

BY THE CHAIRMAN:

Q            It has been stated in evidence this morning  
that, according to the payroll of the Robindale Quarries  
Limited, you worked for some seven and one-quarter  
months for them, commencing early in 1948, and going  
through to October 31st?

A            Yes.

Q            And that from the 15th of July to the 31st of  
October, 1948, you worked on the farm of hon. George  
Doucett, Minister of Highways?

A            Yes.

Q            That is right, is it?

A            Yes.

Q            As far as you were concerned, it was stated  
this morning, you received your pay from the Robindale  
Quarries Limited during that period?

A            Yes.

BY MR. WREN:

Q            Did you receive any other pay during the time  
you were on the farm?

A            No.

Q            Other than what you received from the Robindale  
Quarries Limited?





A No, I did not. Mr. McFarland -- I do not know who it was -- gave me some dollars -- \$10.00 or \$20.00 or so -- just to buy ice cream or something. That is all.

Q Over and above what you were paid by cheque?

A Yes.

HON. MR. PORTER: Is there anything wrong with that?

BY MR. WREN:

Q How many hours a day did you work on the farm?

A I cannot say.

Q Was it an eight-hour day?

A Nine hours -- ten hours.

Q Was it hard work?

A Not so very hard.

MR. OLIVER: All farm work is hard work.

HON. MR. PORTER: This is the first time I ever heard a farmer admit that one.

BY MR. WREN:

Q During the time you were there, did you think it was necessary to get the work done for the two of you to be there?

A Oh, yes.

Q There was enough work to keep the two of you busy?



A Yes.

Q Did you make a statement at any time to an officer of the Provincial Police?

A Yes.

Q In that statement, did you tell the officer that the work around the farm was pretty easy, and you had a lot of spare time?

A I cannot talk good English language, and secondly, I found out in Europe you work harder than here -- in our country, anyway. I had to work much harder at home.

I did in two days there more than I did in a week here.

Q Did you make a statement to this Provincial Police officer, who spoke to you, that you wondered why perhaps some of this money was not spread around to the poor people, or words to that effect, and you thought your time and effort there was not entirely needed, and you wondered why you were kept so long?

A I do not remember that.

Q Did you ever make that statement to any other person who interviewed you, and wrote it down?

A Yes. I saw Mr. Wride. Maybe I should not say so, but I am mad at him because he promised me a Government job, just like you fellows have.



BY HON. MR. PORTER:

Q Who promised you this job?

A Wride.

MR. OLIVER: Surely not "like we have"?

BY MR. JAMES:

Q What did he offer you?

A \$2.50 per hour, and a ten-years' guaranteed job.

BY MR. BECKETT, Q.C.:

Q Doing what kind of work?

A Oh, everything. A little bit of farming job and sewers. I am working on sewers and watermains now.

BY MR. JAMES:

Q Why did he make you this offer?

A I know he did, but I do not know that.

Q What do you think now?

A Just some trick. I do not know why he made that.

But, anyway, he saw me and asked me if I wanted a good job. So I did not know why I should not take a good job.

BY THE CHAIRMAN:

Q Where did this conversation take place?

A In my place, in Cobourg.

BY HON. MR. PORTER:

Q How long ago was that?



BY THE CHAIRMAN:

Q Yes, when was that?

A I cannot remember. I am too busy.

BY HON. MR. PORTER:

Q Was it a long time ago?

A It is quite a while. It was this year.

Q So Mr. Wride came to you during this year?

A Yes.

BY THE CHAIRMAN:

Q Would it be in April of this year?

A I cannot remember so good, but it was in  
March or April.

BY HON. MR. PORTER:

Q It was not when you were working on the farm  
of the hon. Mr. Doucett?

A No.

BY MR. JAMES:

Q Did he have quite a bit of liquor on him?

A I would not say he had too much.

BY MR. BECKETT, Q.C.:

Q Where did he come from?

A Who?

Q This chap.

BY MR. COLLINGS:

Q Who sent Mr. Wride to see you?

A I do not know. I know him if I see him. I





cannot say I am good friends. We used to be good friends.

He used to work for the McFarland Construction Company.

THE CHAIRMAN: Is Mr. Wride in the room?

MR. RICHARDSON, Q.C.: He should be.

---A gentlemen stands at the rear of the room.

BY THE CHAIRMAN:

Q Is this (indicating the standing gentleman) the man about whom you were speaking?

A Yes. He used to work for McFarland. Him and I worked together. I was there before he came, but he knew me. If he saw me, he remembers, but he may not know my name, and I know his name, anyway.

He came down to see me, if I wanted to have a good job.

BY MR. WREN:

Q Mr. Zakrajsek, will you tell me the circumstances under which you went to the farm?

MR. COLLINGS: Let us get Mr. Wride here.

HON. MR. PORTER: This is an extraordinary thing. He came down to see him in Cobourg.

THE WITNESS: That is right.

BY HON. MR. PORTER:

Q And he wanted to get some statement from you?



A I would not say a "statement". I made application for a job. That is what he wanted. I could not write English. I am a poor talker, anyway, and he wrote it, and I signed it.

Q Did he ask you for some information at all?

A That is what he came for.

Q Just to offer you a job?

A He said he could get me a Government job.

BY MR. JAMES:

Q But you had to do a certain thing first, did you? You had to make a statement to him?

A No. He said for me to make application. They wanted to have three or four good men on the job, so he said, "I think I know you, and you know the job, and I think you would be a good fellow to go there".

He told me I could take my brothers with me. I have two brothers here. And maybe Wallan; he is a good friend of mine.

BY MR. JAMES:

Q He tried to get you to drink too much liquor?

THE CHAIRMAN: I suggest we let the witness finish his statement.

THE WITNESS: He said, "You will have \$2.50 per hour, and you can take your family with you. You will have a free house there. All you will pay is



water and electricity".

I have a house in Cobourg, and he said, "I will rent that house then". He said, "There you are".

I said that would be a good idea, a ten-years' job; it is not too easy to get a job now, and it is a good idea.

He said, "You work on the watermains and the sewers, and a little bit of farming".

He said, "Did you ever work on a farm?", and I said, "I did a little bit in the old country; not too much, but I have been working here two or three months".

I said I was on Mr. Doucett's farm. He said, "That is better yet". He said, "They will see your application in Ottawa, and when they see you have worked on Doucett's farm, they will say, 'Alright, that must be a good boy'". I said, "That is alright".

He left my place for a couple of hours, and he came back -- I cannot just say exactly the week or the day, but just shortly after -- and he had two gentlemen with him. I did not know them at all, and I would not know them if I saw them. I was busy. They came to the job where I was working.

I think we had quite a bit of liquor that night, and it is hard for me to write what I had to, and he said, "Would you tell, in short, how long you



had been working on the Doucett farm?", and he said, "We go down to Ottawa and put the application in, and by May, I will call you and you will have the job."

I said, "That is fine", and away they go.

BY MR. COLLINGS:

Q Did you ever get the job?

A Not yet.

BY HON. MR. PORTER:

Q Did you ever hear from them at all?

A No.

Q You have never heard from them since?

A No.

Q Did he ask you to sign any written statement?

A That was all I was signing was the application.

Q The application for the job?

A Yes.

Q Were you able to read that application, to know what was in it?

A He could not read it, because they came back again.

BY MR. COLLINGS:

Q You never heard from Ottawa?

A No.

BY MR. WREN:

Q Did you write it yourself?





A No, he wrote it.

BY MR. JAMES:

Q And you signed it?

A Yes.

BY HON. MR. PORTER:

Q You did not read this?

A No.

Q You do not know what you signed?

A I trust people, like.

HON. MR. PORTER: Is this what is in Mr. Wren's affidavits?

MR. WREN: No, certainly not.

BY THE CHAIRMAN:

Q You said at the time you were working? Did you see them while you were working -- that they had a little inducement of liquor?

A Yes.

Q After you got through working, did you join them again?

A No, they left. He just stopped on the job for five minutes.

BY MR. JAMES:

Q You did not get all the liquor?

A No.

BY THE CHAIRMAN:

Q Is that pretty well everything that happened?



A That is all that happened.

What I want to say is this; I do not mind what it is, but I trust anybody like myself. I am a true fellow. I came in Canada in 1948, early, and my first job was with the McFarland Construction, and they treated me well all the time, and the first money I made was there. I will swear on that book (indicating Bible) that I am saying what is true, and I do not know why he came down and did that dirty trick.

I do not like Mr. Wride. I used to like him. He was a foreman mechanic, and now I have to have a job. I pretty near rented my downstairs, and I have got no job, so I have to keep it myself.

But I was on the farm, and I was paid by Mr. McFarland; that is all I know.

BY HON. MR. PORTER:

Q Would you recognize these other men who were with Mr. Wride on that occasion?

A No.

Q Do you see them here today?

A No.

Q You do not see them in this room?

A No, I do not think so.

Q Was Mr. Duncan one of them?

A No, I do not think so. Well, I would not



know. When I work, I do not pay too much attention, and it is hard to remember.

HON. MR. PORTER: I would think anybody would be lucky to have you on the job.

BY MR. WREN:

Q When the Provincial Police officer saw you, he did not tell you any stories? How did he approach you?

A Oh, he just said -- the first he saw me was about the statement or something, and I told him I had made an application. I would not call that a "statement". I told him what I know. The first talk, I just said what I know.

Q Did this policeman write down what you told him?

A Yes.

Q Did he write down what you said?

A Yes.

Q And did you sign that?

A Yes.

Q He did not promise you any job?

A No.

Q He did not promise you anything?

A No.

Q He just asked some questions?

A Yes. That is when I knew about it. He said,



"You may hear about some trouble on the highways".

He said he wanted to get some information, and I gave him all I know, and I did not lie. I am a true fellow, and I want to stay a true fellow.

BY MR. WREN:

Q Did this policeman read it back to you?

A I read it back again.

Q And you signed it?

A Yes.

Q Did he put his signature on it, too?

A I do not know about that.

Q You were giving him a straight statement?

A Yes, as much as I can remember. It is six years ago. So I told him what I knew.

MR. WREN: That is all, thank you.

---The witness retired.

HON. MR. PORTER: Do you want anybody else?

MR. WREN: I want to verify by the other fellows that he signed this statement.

HON. MR. PORTER: Do you want these statements?

MR. WREN: Have you the statements?

HON. MR. PORTER: Certainly. You could save a lot of time by being sensible.





MR. WREN: If you have them, they can be put into the record.

HON. MR. PORTER: If you want Valant, call him.

THE CHAIRMAN: I do not want to leave it and have you say you did not have a chance to produce these men.

HON. MR. PORTER: Who do you want called now?

MR. WREN: The main witness, at the moment, is the hon. Minister of Highways, (Mr. Doucett).

THE CHAIRMAN: Let us deal with the witnesses you asked to have summonsed.

MR. WREN: All I wanted to establish was that he signed the statement.

MR. COLLINGS: Who sent Mr. Wride?

THE CHAIRMAN: We will call Mr. Valant.

S T A N I E Y   V A L A N T,

Smelter man, residing in the village of Noranda, in the province of Quebec, a witness being called and duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q        You heard the evidence this morning to the effect that you and the last witness were employed by the Robindale Quarries Limited for about seven and



one-quarter months, in 1948, ending early in December, 1948?

A Yes.

Q And that for a period of three and one-half months, from the 15th of July, 1948, to the 31st of October, 1948, you worked on the farm of the hon. George Doucett, Minister of Highways?

A That is right.

Q And that you received your pay throughout the whole seven and one-quarter months from the Robindale Quarries Limited?

A That is right.

Q That is correct, is it not?

A Yes.

Q And the rates of pay were discussed here this morning, and are correct?

A That is right.

BY MR. WREN:

Q Just one question; do you recall a Provincial Police officer asking you certain questions about your employment on the farm?

A Yes.

Q And you answered those questions?

A Yes.

Q And he wrote your answers down?



A Yes.

Q You know what he wrote down?

A Yes.

Q And you signed it?

A Yes.

Q He did not sign it?

A I do not know.

BY MR. JAMES:

Q Can you read English?

A A little bit.

Q Did you read it over?

A Yes. He wanted to know if I was certain, or just thinking about it. It was a long time ago, and he said it was important to me to get a job on the farm, and what I knew, I told him.

I told him what I was certain about. I told him I worked on George Doucett's farm and got paid by the McFarland Construction Company. That is all I am positive about.

Anything else, I am not positive.

BY THE CHAIRMAN:

Q The Robindale Quarries Limited was the Company mentioned; do you remember your cheques coming from the Robindale Quarries Limited?

A I do not remember anything. I know Mr. McFarland, the head of the Company, and the cheques were



signed by him.

BY MR. WREN:

Q You do not remember whether they were Robindale Quarries Limited' cheques or McFarland's?

A I cannot remember that.

BY MR. COLLINGS:

Q Did you ever have a visit from Mr. Wride?

A No. The Provincial Police told me I might have a visit, after that.

BY MR. BECKETT, Q.C.:

Q Nobody else came to see you?

A Nobody else.

BY THE CHAIRMAN:

Q You had nothing to do with this visit in Cobourg Mr. Zakrajsek told us about?

A No, I do not know anything about it.

Q Is there anything else you would like to tell this Committee, in relation to this matter?

A If you ask me, I do not know what to say.

---The witness retired.

THE CHAIRMAN: Mr. Wren, you asked that a Mr. K ssar be subpoenaed Is there any evidence he can give? I think he is a Telegram reporter, and unless he can give first-hand and positive evidence --





MR. WREN: The evidence Mr. Kossar would have would be in relation to Mr. Zakrajsek, the first witness.

THE CHAIRMAN: Unless he contradicts something which has been said --

HON. MR. PORTER: It is all admitted. I do not know why we should have to waste our time in this way.

MR. WREN: The witness would confirm that he made a statement.

HON. MR. PORTER: I never heard of anything more silly. Do you want Mr. Wride?

MR. WREN: I do not want Mr. Wride at the present time. Anything he has to say on this, has been traced by the Provincial Auditor (Mr. Cotnam ) and the Provincial Police.

HON. MR. PORTER: And we have heard the evidence of Miss Frederick. The case is so clear now, there is no possible argument about it.

THE CHAIRMAN: Mr. McHugh was also served with a Speaker's warrant. Do you want him to be brought before this Committee?

MR. WREN: I would like to ask him one or two questions.

HON. MR. PORTER: What about?

MR. GRUMMETT, Q.C.: Wait, and let us find out



from the witnesses.

C L A R E N C E M C H U G H,

Truck driver, residing at R.R.8, Picton, Ontario, a witness being called and duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q You were in the room this morning?

A Yes.

Q And heard the evidence given here in connection with the employment of the two witnesses who spoke earlier this afternoon?

A That is right.

Q Can you add anything further to that evidence?

A No sir, I cannot.

BY MR. WREN:

Q Mr. McHugh, you were employed by the McFarland Construction Company?

A Yes, I was, Mr. Wren, and still am.

Q You are still in the Company's employ?

A Yes.

Q What are your duties with the Company?

A I drive the floating truck.

Q That is used for moving heavy machinery?

A Yes.

Q Did you at any time during the course of your



employment deliver equipment to any other place than actual construction jobs the Company had?

A Well -- no, sir, not that I recall.

THE CHAIRMAN: What has this to do with the charge we are dealing with this morning? We are dealing with the employment of the men on the farm, and you allege the statements by the hon. Minister (Mr. Doucett) were not correct. We will keep very clearly to that charge.

MR. WREN: You are confining me to that?

THE CHAIRMAN: I am confining this matter to that, yes.

HON. MR. PORTER: That is your statement. Surely you will not bring up something entirely new?

MR. WREN: We were talking about services --

HON. MR. PORTER: You said in the newspapers -- you named one particular incident. If you are going to start guessing about a lot of other stuff --

MR. WREN: I am not guessing.

HON. MR. PORTER: Now you have lost on the one --

MR. WREN: I have not lost at all.

HON. MR. PORTER: We will not get into any "fishing expedition" if you have any charges to lay, lay them.

MR. WREN: We have not touched on the main



thing at all, as yet.

HON. MR. PORTER: You lay a charge that men were working on the farm. That has been completely explained.

MR. WREN: Evidence has been brought forward from one source that the money was repaid.

HON. MR. PORTER: Yes, that deals with that case.

MR. WREN: I want to establish whether or not it was repaid. If you are going to confine this to strictly men on the payroll, I will have no further questions.

HON. MR. PORTER: That is all I think we have to do.

MR. WREN: If you are talking about services of a contractor, there are some questions I would like to ask.

THE CHAIRMAN: I presume you know what these witnesses know about anything?

MR. WREN: Yes, I think I do.

THE CHAIRMAN: State what you think these witnesses know.

MR. WREN: I want to ask this question. I will tell you what I want to ask this witness, that is, if he ever delivered, during the course of his employment





with that Company, any equipment or goods to the farm of the hon. Minister (Mr. Doucett).

HON. MR. PORTER: What does that prove?

We are not here to discuss any and everything.

MR. WREN: What does it prove?

HON. MR. PORTER: Yes.

MR. WREN: If a contracting company was supplying someone with equipment --

HON. MR. PORTER: You now say "if something else was supplied". You made a definite charge against the hon. Minister (Mr. Doucett), a fellow member of the Legislature, and it was based entirely on your own statement, and entirely on an incident in 1948 of men working on the farm.

MR. WREN: That is what you have confined it to. The Chairman, in calling this meeting, said that would be the only incident.

MR. OLIVER: I would imagine, Mr. Chairman, that the hon. Minister (Mr. Doucett), who is in the room, would want to know what this witness will say.

HON. MR. PORTER: This Committee will not be made the butt of a lot of guessing.

MR. COLLINGS: I would imagine this witness will say what he took to the farm.

HON. MR. PORTER: You mean to say that the



hon. Minister (Mr. Doucett) has to be called before this Committee to answer every delivery made to his farm in the last six years, whether from a grocery store, or whatever it is, and that he paid his bills?

MR. COLLINGS: What did Mr. Wride tell him?

MR. OLIVER: Why not let the witness say?

HON. MR. PORTER: I think it is utter nonsense. I think we are just being made the butt.

THE CHAIRMAN: We will not have "smears" or hearsay evidence, or even near hearsay.

If you know that he received, as a member of the Legislature, a gift of something, that is a different story. But if you ask this man if he happened to drive past hon. Mr. Doucett's farm, and dropped in a bale of hay, and get an answer "Yes" or "No", that is something which has nothing to do with your charge.

If you have evidence of some substantial gift being given, about which this witness knows, that is a different matter.

MR. WREN: If you are going to confine it to the payroll incident --

HON. MR. PORTER: That is what we have heard about, so far. That is all you have talked about, up until now.

MR. WREN: But I am not permitted to ask that



question.

THE CHAIRMAN: If you want to ask this man the straight question, and you know he knows something about gifts, that is a different matter.

But if you ask if he made deliveries --

MR. OLIVER: Do you always know what a witness will say, before he gives his evidence?

MR. RICHARDSON, Q.C.: Mr. Chairman, may I interject? I act for Mr. McFarland, and I do not want any more suggestions of impropriety. Surely we have had enough.

If Mr. Wren -- as you have put it, Mr. Chairman -- can put evidence of impropriety in an affidavit so I can charge him with perjury, I wish he would.

But if he will put the question -- as you say, Mr. Chairman -- on his responsibility as a member of this Committee, as to whether there was some impropriety about machinery, and suggests he can back it up, we will meet it, but if he puts it in an affidavit, we will charge him with perjury. There is no doubt about that.

If Mr. Wride has misinformed Mr. Wren, he must take the responsibility for that.

The member should be ashamed of himself.

THE CHAIRMAN: You do not wish to make any charge of receiving gifts, against the hon. Minister (Mr. Doucett)?



THE WITNESS: Absolutely not, Mr. Chairman.

THE CHAIRMAN: Then it is your responsibility,  
Mr. Wren.

MR. WREN: I will not question him any  
further.

MR. COLLINGS: Then that falls down.

THE CHAIRMAN: The witness does not come here  
with any desire to make an accusation against the hon.  
Minister (Mr. Doucett). He is here as a citizen, and  
says he has no desire to make such an accusation, and  
I take it he has no reason for making one.

BY THE CHAIRMAN:

Q Is that right?

A That is correct, Mr. Chairman.

THE CHAIRMAN: I think, unless you have some-  
thing else, you should apologize to the Committee, Mr.  
Wren, for having asked this man to be called.  
---The witness retired.

THE CHAIRMAN: There is another witness. Do  
you want him called?

MR. WREN: I want the hon. Minister of  
Highways (Mr. Doucett); that is whom I want at the  
present time.

THE CHAIRMAN: Do you want Mr. Wride?





MR. WREN: Anything Mr. Wride has said to me, as I have mentioned, has been verified to the point arrived at by the auditor's office and the prosecutor's office, and the statements are available on that score.

I ask that Mr. Wride be called. As I said, Mr. Chairman, I did not know what the procedure would be, so I could establish that the source of the information and the information itself had been verified.

HON. MR. PORTER: If you do not want Mr. Wride, have you any other charge against the hon. Minister (Mr. Doucett), or an accusation against anybody in the Highways Department, which you want to present to this Committee at this time, call your witnesses.

You have had Speaker's warrants issued and these men were called on your behalf, Mr. Wren.

Mr. Wren now does not appear to want to call Mr. Wride.

THE CHAIRMAN: Mr. Wride, will you please come forward?

MR. RICHARDSON, Q.C.: Mr. Duncan is representing him.

MR. OLIVER: Which is an absolutely unnecessary statement on your part, and I do not mind saying so.

MR. GRUMMETT, Q.C.: That is not fair. Mr. Richardson is not running this Committee.



MR. WREN: Apparently he is attempting to.

MR. DUNCAN: I was only going to give him a bit of advice.

THE CHAIRMAN: Do you want to be heard, Mr. Wride?

MR. WRIDE: At the present time, I have no charges to lay against anybody. It will have to go on further.

THE CHAIRMAN: Alright, thank you.

That exhausts your panel of witnesses who were brought in by Speaker's warrants, by your request.

You made a request that the hon. Prime Minister (Mr. Frost), the hon. Mr. Doucett, Mr. Dubin, Q.C., and Mr. Cotnam, the Provincial Auditor, should be called before this Committee.

None of these men have been brought in under any warrant; as a matter of fact, it would be highly improper to even think of asking for a Speaker's warrant for hon. Ministers of the Crown, to appear before a Committee of this sort.

We are dealing with a very specific charge, and in a charge of this kind, certainly you have no right whatsoever to call as a witness, the man whom you are accusing, and asking him to give evidence before this Committee -- none whatsoever.



If you cannot substantiate, beyond the shadow of a doubt, this charge, then it fails, and you have to substantiate it without the evidence of the accused. That is ordinary British justice, and I feel free in saying that so long as this Party is in power in this province, that principle will be maintained.

MR. WREN: I want to know the source of the funds from which the account was repaid?

HON. MR. PORTER: Is there anything further this Committee has to decide today? It seems to me -- as to some of the other members of the Committee -- that we have heard conclusive evidence as to the circumstances under which these two men were employed on the farm of the hon. Minister (Mr. Doucett).

THE CHAIRMAN: I take it there is nobody in this room who wants to give evidence on the pertinent facts? If so, now is your opportunity to do so.

HON. MR. PORTER: Is there anybody here who can disprove or throw any cloud on the evidence of Miss Frederick? (No response). Apparently not.

What else is there to be done?

THE CHAIRMAN: It seems to me we have reached the end of the evidence in regard to this matter, but if you have anything to add, you had better do it now.

MR. WREN: There is really nothing I have to



say. I read what I have to say into the record this morning, and I still stand on that information brought to my attention, and which I have made it my business to investigate.

I checked it to determine if the evidence given to me that these men were working on the farm of the hon. Minister (Mr. Doucett) and that they were paid by cheque from another company, contrary to the evidence in that regard, wherein it was stated that any man who ever worked on the farm of the hon. Minister (Mr. Doucett) was paid by the hon. Minister, or, as he later testified, by his farm manager -- whether that statement was found to be correct.

HON. MR. PORTER: You never pointed out that incident to him, an incident which occurred six years ago.

MR. WREN: That is definitely contrary to the statement made to this Committee.

MR. JAMES: He said that anything that was done was paid for by him.

MR. WREN: The questions and answers were very, very clear, indeed, the intent of the questions and the intent of the answers.

HON. MR. PORTER: You had a certain incident in mind which took place six years ago, and in all fairness to any witness, especially the man most concerned with





the carrying on of a vast department, it is surely fair to him, when asking questions, to face him with what you knew about that incident, and say, "What do you know about that?", and say to him, "Is there any explanation?". You could have said to him, "I heard some men were working on your farm; what about it?".

MR. WREN: I asked him that question, and he said there never was at any time.

HON. MR. PORTER: Blanket questions and blanket answers, and you had in mind an incident which occurred six years ago. It was in your mind.

MR. DENT: Mr. Chairman, he said --

HON. MR. PORTER: I do not think there is anything so unfair or unconscionable as the action by Mr. Wren.

MR. COLLINGS: I think it is unfair, if he did not bring it up -- most unfair.

HON. MR. PORTER: Hon. Mr. Doucett was in the witness box. Mr. Wren had the information then, and should have asked him about it.

MR. JAMES: But he went to the newspapers, who ever since have peddled it all over the country.

HON. MR. PORTER: Without getting correct information, he has been smearing another member of the Legislature.



MR. COLLINGS: Charging the hon. Minister (Mr. Doucett) with perjury. I think it is terrible.

MR. WREN: I only went to see about the mechanics for laying a charge.

MR. COLLINGS: You told the Press your request was refused.

MR. WREN: My statement to the Press was that a Justice of the Peace had told me he could not accept that information.

HON. MR. PORTER: You told the Press all about it, because you thought that would be giving you good publicity, that is, good publicity for you, but bad publicity for the hon. Minister (Mr. Doucett).

THE CHAIRMAN: Have you anything further to add?

MR. WREN: No.

THE CHAIRMAN: Mr. Oliver, have you anything to say at this point?

MR. OLIVER: I was wondering what you will have to say.

THE CHAIRMAN: I will give every member of the Committee an opportunity to make any comment he wishes.

Mr. Grummett, have you anything?

MR. GRUMMETT, Q.C.: No.

THE CHAIRMAN: Mr. Herbert, have you?



MR. HERBERT: No, I think not, Mr. Chairman.

THE CHAIRMAN: Hon. Mr. Mapledoram, do you wish to make any comment?

HON. MR. MAPLEDORAM: I think our colleague has been ill-advised. I hope so. I have known him for a long time, and I hope that is the case.

MR. OLIVER: Perhaps the hon. Minister (Mr. Doucett) would want to say something himself.

THE CHAIRMAN: Mr. Beckett, have you anything to say?

MR. BECKETT, Q.C.: I am satisfied with the evidence, Mr. Chairman, and especially with the records of the Company.

THE CHAIRMAN: Mr. Janes, do you wish to comment?

MR. JANES: I think the hon. Minister (Mr. Doucett) has been completely exonerated in every way, and I think Mr. Wren owes him an apology.

HON. MR. PORTER: So do I.

MR. COLLINGS: I hope this Committee will take some action on it.

THE CHAIRMAN: I think the evidence given today establishes clearly there is no basis for a charge of the nature which was levelled by the hon. member for Kenora (Mr. Wren).

I think we have been complete in our investigation



here of this charge, and every opportunity has been given for the facts to be established.

The hon. member for Kenora (Mr. Wren), in the opinion of this Committee, fails completely to make out any case against the hon. Minister of Highways (Mr. Doucett) as charged by him, in relation to the evidence of the hon. Minister (Mr. Doucett) given on the 30th of June.

That, I think, is the unanimous finding, I will say, of this Committee, with Mr. Wren excepted because he brought the charge. With that exception, I think it should be recorded as the unanimous decision of the Committee.

MR. OLIVER: Mr. Chairman, before you say it is "unanimous", I think I am bound to say that the evidence submitted today is a very clear indication that the hon. Minister (Mr. Doucett) had these men on the farm, and paid for their services. We have no evidence to the contrary.

But there is a point I think in everyone's mind and that is in regard to the practice of an hon. Minister of Highways -- and I doubt if hon. Mr. Doucett will follow it in the future -- having men employed by any contractor working on his farm. I think it puts the hon. Minister in a bad light, and the contractor





as well.

I think the proper procedure would be to divorce entirely the hon. Minister of Highways from having any men on his farm who were employed by, and under the jurisdiction of any contractor.

With that reservation, I will have to agree with the evidence submitted here today.

MR. JANES: Mr. Chairman, this Company never had a contract with the Department, nor with the province of Ontario, at any time.

The hon. Mr. Doucett owned a farm. I am a farmer, and I have hired contractors' men to work for me, even since I have been a member of the Legislature. If he wants some work done with power machinery, should he refrain from having that work done just because he was a member of the Legislature? I do not think so. He has to get his farm work done.

MR. BECKETT, Q.C.: He cannot get the machinery otherwise.

MR. JANES: I have had a contractor working for me this summer, and I paid him.

HON. MR. PORTER: I do not know as we are concerned with that. After all, we all make mistakes. If we did not, we would not be human.

But it is one thing to make a mistake, and



another thing to commit perjury.

MR. OLIVER: It is quite a different thing, as every member will see, for a member of the Legislature to have contractors' machinery on his farm, and the hon. Minister of Highways, having contractors' machinery on his farm, because the hon. Minister is in the position of dealing with these contractors all the time, and it does not create a good impression in the minds of the public, to have a thing of that kind occur.

I am honest in that opinion.

HON. MR. PORTER: That is what we are here today to decide.

MR. JAMES: This Company never had a contract with this Government.

THE CHAIRMAN: I think that concludes the business, for which the meeting was called.

MR. BECKETT, Q.C.: I move we adjourn.

MR. OLIVER: Before we adjourn, would the Chairman say when we will reconvene?

THE CHAIRMAN: I might say with respect to that, that apart from two or three documents which I would like to file, in the nature purely of technical information obtained from the State of California, and from Germany, which may be of general benefit in reviewing the whole problem -- and perhaps some



explanation to be given about them, we might have a meeting at some suitable time later, but I do not feel this Committee should convene again until the trials are over.

I cannot see any business we can do which would be of any real value, which might not get tangled up with the trials.

MR. OLIVER: We are on the question as to when the Committee should reconvene, and I want to say to the Chairman and to the Committee, that we are prepared to proceed to call witnesses to give evidence we believe will establish and prove this, Mr. Chairman, that the low prices which were prevailing in 1950 were actually the cause of the Highway trouble through which we have been coming.

THE CHAIRMAN: I think the question of prices has been made clear to have a bearing on the trials.

I do not think we should go further until the trials are completed.

MR. OLIVER: It seems so important we should be proceeding with some of the basic matters in this regard.

I believe implicitly that was the cause of the trouble, that the Government knew about it, and in many ways encouraged the practice, which was a vicious



practice, and which led us into these difficulties.

I think protection was afforded some of these contractors who bid too low, and they were virtually guaranteed, even if they did bid low, they would be "bailed out".

That is what we should be getting at, in this Committee.

I am prepared, when my friend (the Chairman) thinks we could properly proceed, and sets a day, to give evidence which I believe will establish these facts, and enable us to get down to something fundamental.

THE CHAIRMAN: I feel from the evidence already given, and from what Mr. Cotnam has said, that we should not go further into the question of prices until the trials are out of the way.

I believe the first trial will take place early in October, and will be followed as quickly as possible, by the others.

It seems to me this Committee has been very anxious to do its job, but I do not think we can go any further than we have, until these trials are out of the way.

MR. OLIVER: There is another question, Mr. Chairman, I certainly want dealt with before the Committee and that is the whole question of bonding





contractors.

I think we will find out that the Government, or the Department, persuaded Bonding Companies to bond contractors, when they knew the prices for which they were working were uneconomical; in other words, they were virtually guarantying the contractors against loss.

That is at the root of the whole problem, and one which we must get after.

It is unfortunate that all these things have to wait until the trials are over. I am not sure how they dove-tail, one with the other, but I presume I will have to accept my friend's (the Chairman) word for that, that the evidence which would come out, might be prejudicial to the trials.

Of course, if that be so, we have all agreed not to proceed.

THE CHAIRMAN: I understand they are working on certain resolutions, but are not ready to present them at the moment.

MR. OLIVER: The Auditor, (Mr. Cotnam) has had time since last year to speed up his investigations. Is there anything further we may have at this time?

THE CHAIRMAN: I think Mr. Cotnam said that at the moment it is not time for any further statement to the Committee.



MR. COTNAM: That is right, Mr. Chairman.

MR. OLIVER: The Auditor told us at a former meeting what had transpired in certain areas. If it was right for him to tell us at that time, has he not gone enough further now so that he can give us more of the same picture? He has been working on it during the intervening weeks.

MR. COTNAM: I would like to say this to the Committee, that in view of the information furnished to the Committee, and which now has been the subject of comments in the courts, at the preliminary hearings, I feel that anything which could be said now might be prejudicial to a fair trial, both on behalf of the Crown, and those charged.

THE CHAIRMAN: I think we are bound to accept that.

We are getting quite close to the date when these trials will take place.

MR. JAMES: If Mr. Oliver has finished, I would like to make a suggestion. I feel that Mr. Wren has allowed himself to be misled, by listening to some of these men who had ulterior motives in so doing, and I would like Mr. Wren to take this opportunity to apologize to the hon. Minister (Mr. Doucett).

MR. OLIVER: I do not think the hon. Minister



(Mr. Doucett) really expects that. If so, I do not read his thoughts aright.

I said this morning -- and I repeat -- if somebody came to me with affidavits purporting to show there were irregularities in the Department, I would be bound to come forward in the Committee, as you know I would, and bring these things out.

That was Mr. Wren's stand, and I do not see there is anything wrong with it.

MR. JANES: He has found this charge was false.

MR. OLIVER: That was the Committee's duty. It was the duty of the Committee to get the chaff out of the wheat, and we have done that.

MR. JANES: Let him clear his own skirts, that he was completely honest in his charges. I am quite frank in saying that.

MR. WREN: Do you deny my honesty by making that assertion?

MR. JANES: I am asking you to say you were honest in bringing that charge.

MR. WREN: I certainly was. I feel I carried out my duty as a member of the Legislature, and as long as I am a member of the Legislature, I will follow up anything which comes to my attention, which I think needs investigation.



MR. JAMES: You will not admit you were wrong? It has been proven. Admit it now, and get in good standing again.

MR. GRUMMETT, Q.C.: There is one thing which occurred to me sometime ago, and that was the fact that the hon. Attorney-General (Mr. Porter) has statements taken by a Provincial Police officer.

Is there anything wrong in handing them in to the Hansard reporter, and having them included in the record?

HON. MR. PORTER: Nothing whatever.

MR. GRUMMETT, Q.C.: There are statements which bear on this matter, and I think the Committee should know what is in them.

HON. MR. PORTER: Statements given by these two witnesses, dealing with this particular matter.

There is no objection to the statements going on record. These (indicating) are signed copies.

MR. GRUMMETT, Q.C.: A copy of each could be handed to the Hansard reporter, and included in the record.

HON. MR. PORTER: Yes, and the originals could then be returned to Mr. Cotnam.

THE CHAIRMAN: There are two statements, one by each of these two gentlemen, given to a Provincial





Police Officer, who was commissioned by Mr. Cotnam, the Provincial Auditor, to interview them as a result of the names of these two gentlemen being given to Mr. Cotnam by Mr. Wren.

They may be filed as Exhibits 61 and 62.

HON. MR. PORTER: I would suggest they be included in the record, and then the originals returned to Mr. Cotnam.

THE CHAIRMAN: Very well. Instead of being made Exhibits, they will be incorporated in the records of the Committee.

---Whereupon the two statements, one by Mr. Valant and one by Mr. Zakrajsek, were directed to be placed in the records of the Committee, and they are, in words and figures, as follows, to-wit:

(page 2246 follows)



Cobourg, Ontario,  
June 16, 1954.

Statement of Joseph Zakrajsek, 285 College Street,  
Cobourg, Ontario:

Q. Mr. Zakrajsek, where were you born?

A. Yugoslavia.

Q. How old are you?

A. 29.

Q. Are you married?

A. Yes.

Q. When did you come to Canada?

A. In 1948, April 29.

Q. Have you any relatives here?

A. I have two brothers, Victor and Martin.

My wife and I live here in Cobourg.

Q. What is Victor's address?

A. 340 Ossington Avenue. He works for a plumber,  
Mario Rogell, of Oakville.

Q. What is Martin's address?

A. 39 A Auburn Avenue, Toronto. He is a plumber.

Q. What was your first work when you came to  
Canada?

A. I worked for McFarland Construction Company  
on extra gang work.



Q. Where were you hired?

A. In Austria. I didn't know who I was to work for but I knew it was on railroad work.

Q. Where, in Canada, did you start working for McFarland Construction?

A. On the C.P.R. at Avonmore. I started there early in May, 1948.

Q. Who was in charge of that job for McFarland?

A. The superintendent was Elmer French.

Q. Did you leave this work to go work somewhere else?

A. Yes, on Mr. George Doucett's farm, near Carleton Place.

Q. Will you tell me, please, just how it was that you went to work on Mr. Doucett's farm.

A. Mr. French asked me if I would like to work on a farm and I told him I would. I think that would be early in July, 1948. He told me I could go there for about eight days, he didn't tell me where the farm was. That same day Mr. French took Stan Valant, who was working on the extra gang, and myself in a car to Smiths Falls from Finch where we were working then. There we met Mr. Harvey McFarland, Sr. and he took Valant and myself to a farm about one mile from Carleton Place.

Q. Had you met or seen Mr. McFarland before that day?



A. No.

Q. When you met him at Smiths Falls, what was said about you going to work at the farm?

A. French said, "Here, I brought you two fellows." They talked together but I didn't pay attention to what they said. I didn't know the English language too good at that time.

Q. Did Mr. McFarland have anything to say to you or Valant on the way to the farm?

A. He asked us how we liked this country and such things as that.

Q. Did he say why you were being taken off the extra gang to do farm work?

A. No.

Q. Did he tell you whose farm you would be working on?

A. No.

Q. At that time did you know who owned the farm to which you were going?

A. No.

Q. Tell me, if you will, what happened when you arrived at the farm?

A. I was introduced to a man that Mr. McFarland called, or said was Mr. Doucett and a fellow called 'Pat' who was sort of foreman at that farm. Doucett touched





the muscles first and asked us how good we were for work. He was joking. Nothing was said about whose farm it was.

Q. Did Mr. McFarland say anything to Mr. Doucett when you arrived at the farm?

A. He said "I brought you two fellows here, I think they are good workers". That is about all and it was then Mr. Doucett started joking.

Q. Did you start working that day, on the farm?

A. Right away. They had a lot of dry hay on the field, ready to be taken in, so we jumped on the wagons and away we go. We loaded two wagon loads and Mr. Doucett and Mr. McFarland were there. I think, but I am not sure, that Mr. McFarland drove the tractor, but it was either him or Mr. Doucett. When we brought them two loads home that was all we did for that day. McFarland had a drink of water and said that the farm had the best water for miles around and he had come from Smiths Falls at times just to get a drink of that water. Mr. McFarland left and drove away. Pat's wife cooked at the farm and Valant and I lived there. Mr. Doucett left later that day.

Q. Were there any others working on the farm at that time?

A. No.

Q. When you arrived at the farm, or at any time, was anything said to you about wages, or from whom you



would get your pay?

A. No. Just a minute now. Yes, French told us before we left Finch that we would have ten hours pay a day, if it rained or not and we would get our meals and room free. Mr. Doucett or Mr. McFarland didn't say anything about wages.

Q. What was your pay at that time for McFarland?

A. Sixty cents an hour - we worked ten hours a day on the railroad.

Q. Six days a week?

A. Yes, for a while, when I left to go on the farm. Later we worked five and a half days.

Q. What pay did you get while working at Mr. Doucett's farm?

A. Sixty hours a week at sixty cents an hour, free meals and room.

Q. From whom did you get this pay?

A. McFarland Construction Company, on their cheque<sup>s</sup>.

Q. Who would actually give you the cheques?

A. My brother Victor would sometimes bring it to me when he visited me at the farm, and some Sundays I would visit at the railroad job, Stan Valant and me, on a Sunday and we would get our cheque then.

Q. Was Stan Valant paid the same as you while working on the farm?



A. No.

Q. Was he also paid with a McFarland Construction Company cheque?

A. Yes.

Q. How long did you remain at Mr. Doucett's farm?

A. Until October, 1948.

Q. How did you happen to leave the farm?

A. The extra gang started to break up, so my brother wrote me a letter that there was talk that he and some others were going in the bush and if we wanted to go we had better leave the farm and go back on the railroad. So Valant and I left and went to Merickville and started back on the extra gang for McFarland Construction Company.

Q. Did you speak to any one at the farm, or arrange with McFarland Construction Company before leaving the farm?

A. I was talking to Mr. Doucett, maybe a week before I left, I told him we were going to leave the farm. He asked why and I told him about getting work in the bush. He said, "O.K. boys, I really appreciate the job you have done".

Q. Did you ever receive any pay or money from Mr. Doucett?

A. Shortly before - I should say - shortly after



we went to the farm to work, Mr. Doucett gave me either \$10.00 or \$20.00, I am not quite sure which, and said "Have this for ice cream, boys". Stan Valant was with me at the time and we shared the money. That was all he ever gave me.

Q. Do you know of any other men from McFarland Construction Company who worked at Mr. Doucett's farm?

A. No.

Q. Do you know where Stan Valant is now?

A. He is working in the Smelter at Noranda; he is living on Eighth Street, Noranda.

Q. Do you know a Stan Zupancic?

A. Yes.

Q. Did he work at Mr. Doucett's farm?

A. No.

Q. Do you know where he is now?

A. He used to be in Kingston but now I hear he is in Ottawa working for McFarland Construction Company.

Q. I believe you gave a statement before regarding this matter.

A. Yes, to a man from Toronto, a Mr. Wride.

Q. Do you know what Mr. Doucett does, that is what his profession is?

A. He is Ontario Highways minister.

Q. When did you leave McFarland Construction Company?





A. I left them in August, last year.

Q. What were you working at then, with McFarland?

A. Foreman on sewer and water main work.

Q. For whom are you now working?

A. Fred Ito, a small contractor, Baltimore,  
Ontario. We are on sewer and water work here in Cobourg.

Q. I understand you left McFarland Construction  
because you were offered more pay by another company?

A. Yes, by Reddick and Smith, Belleville.

Q. Can you tell me anything more about the time  
you and Valant worked at Mr. Doucett's farm?

A. No.

Q. What type of work did you do there?

A. Taking in crops, fencing, milking, usual farm  
work.

(Signed) Joseph Zakrajsek.

(page 2254 follows)



Noranda, P.Q.,  
July 22, 1954.  
9.24 a.m.

Statement of Stanley Valant, 221 Eighth Street,  
Noranda, P.Q.:

Q. Mr. Valant, where were you born?

A. In Yugoslavia.

Q. How old are you now?

A. I was 28 last May.

Q. Are you married?

A. Yes, I was married in August, 1950.

Q. When did you come to Canada?

A. May 1, 1948.

Q. Where were you first employed after coming  
to Canada?

A. I started to work for McFarland Construction  
Company, at Avonmore, Ont.

Q. Was that on the extra gang for the C.P.R.?

A. Yes.

Q. Where were you hired for that work?

A. In the Old Country we signed a contract to go  
to work on the railroad for one year. At Halifax they  
told us we were going to work for the C.P.R. We went  
to Smiths Falls and there found out we were to work for  
McFarland. The first work was at Avonmore.



Q. What type of work did you do?

A. Putting in new gravel, some new ties and raising the tracks.

Q. Do you know Joseph Zakrajsek?

A. Yes, very good.

Q. Did you come from the Old Country with him?

A. Yes.

Q. Did you work together for McFarland Construction Company?

A. Yes.

Q. Do you know Stanley Zupancic?

A. Yes, I know him.

Q. Did he work for McFarland Construction Company while you worked for them?

A. No. Last year I saw him at the Trenton Airport and he was working for McFarland then.

Q. Who was your foreman while you worked on the C.P.R. for McFarland?

A. A man called French. McFarland only came around once in awhile.

Q. Did you leave the C.P.R. work, while still in the McFarland employ, to work on a farm?

A. Yes.

Q. Who asked you to work on a farm?

A. McFarland asked French who was a good worker;



another foreman 'Ken' told us later that he had told them that Zakrajsek and I were good workers and good friends. It was about haying time, the first year I worked for McFarland. About 10.30 one morning French told Zakrajsek and I to get ready and at 1.00 p.m. he would take us to Smiths Falls and asked if we would like to work on a farm and make better pay.

Q. Did Mr. French take you and Zakrajsek to Smiths Falls?

A. Yes.

Q. Whom did you meet there?

A. Mr. McFarland, the older man. He took us to Carleton Place, and then about 1½ miles past towards Almonte. There we met Mr. George Doucett. McFarland introduced us to Mr. Doucett and his foreman 'Pat'.

Q. What was said?

A. We were told that we would work on the farm and Pat would be the boss.

Q. Who told you this?

A. I am not sure if it was Mr. McFarland or Mr. Doucett.

Q. Did Mr. McFarland say anything before he left the farm?

A. One asked if I could drive the tractor and I told him I couldn't drive very well. We went into the





field, I drove the tractor and with the hay loader took in one load of hay. When we came back to the house Mr. Doucett and Mr. McFarland talked awhile. When they finished - I don't know what they were saying - Mr. McFarland said: "Be good boys". He had before this promised us better jobs after we were through on the farm.

Q. Did he tell you who would pay you for your work on Mr. Doucett's farm?

A. Yes, Mr. McFarland said we would get the same pay as on the railroad only there would be nothing taken off for food or lodging.

Q. How much did you make an hour on the railroad?

A. Fifty cents.

Q. How many hours did you work each week on the railroad?

A. Fifty four hours, with time taken off for bad weather when we couldn't work. Any overtime we just got fifty cents per hour, straight time.

Q. At the farm, what hours did you work?

A. We figured we would work nine hours, sometimes we worked more, sometimes less. On Sundays we had to feed the pigs and tend the cattle.

Q. How did you get paid for the work on Mr. Doucett's farm?



A. We got our pay cheques from McFarland Construction Company, their own cheques.

Q. Who would deliver the pay cheques to you?

A. Joe's brothers, Victor and Martin, would sometimes bring our cheques to the farm - they were working on the railroad job. A few times either Joe or I went to the Camp and got our cheques.

Q. How long did you work at Mr. Doucett's?

A. I think it was exactly three months.

Q. How did you happen to leave there?

A. We wanted to leave the farm because we had been promised a better job and better pay. We figured the work at the farm was nearly through. Mr. Doucett came to the farm quite often and we asked him when we were going back to the other job, but we never got a real answer. He once said that if we were good we might stay at the farm the year round. Then one day we went to Carleton Place with 'Pat' and we asked 'Pat' to phone McFarland at Picton to find out what we were going to do. We were then told by Pat that we were to report back to the extra gang, on the railroad. We went back to the farm and got our clothes and then went to the camp at Merrickville. Pat took us to the station at Carleton Place and we took the train.

Q. How long did you work for McFarland after



leaving the farm?

A. Possibly a month and then the C.P.R. took us over and we got five cents an hour more pay.

Q. When you returned to McFarland after being at the farm, did you or Joe get a better job or more money?

A. Nothing.

Q. Did Mr. Doucett ever pay you anything for working on his farm?

A. No. He would sometimes give us cigars, after he had supper with us. McFarland gave us both ten dollars - that is he gave me the ten dollars and it was for both Joe and I. He also gave me a pencil with the McFarland name on it.

Q. Then, is it true that all the time you worked at Mr. Doucett's farm you received your wages from McFarland Construction Company on their cheques, for the farm work?

A. That is right.

Q. Do you know if there were any other men from McFarland Construction sent to work on Mr. Doucett's farm?

A. No.

Q. Are you certain whether it was fifty cents or sixty cents per hour you got on the railroad, and at Mr. Doucett's?



A. I am not sure.

Q. Are you certain you did not receive any wages from Mr. Doucett for the time you worked at his farm?

A. I am sure I didn't.

Q. Do you know who Mr. Doucett is?

A. He was the Minister of Highways in Ontario at that time.

Q. How did you know that?

A. McFarland told us that they were good friends; there was an election and I saw Mr. Doucett's picture and he was re-elected.

Q. Do you know of any reason Mr. McFarland would send you and Joe to work on Mr. Doucett's farm and pay your wages?

A. Whenever we would go back to the railroad camp, the boys would ask us how much we get paid at the farm. We told them that we got the same as them but nothing for meals and lodging, that is, we didn't have to pay for meals and lodging. Some of them would then say that McFarland got contracts from Doucett and we were only a present from McFarland to Mr. Doucett.

When McFarland took us to the farm, he told us we would have a good time and not to say anything to any person. We asked him where we would get paid and he said to go back and get a cheque just as we did before.





Q. Have you read over this and the other three pages of this statement?

A. Yes.

Q. Is it all true to the best of your memory?

A. That is right.

Q. Is there anything more you can tell me about the time you were working for McFarland Construction Company or for Mr. Doucett?

A. One day while we were at the farm we said we would like to go back to the extra gang for a visit, and Mr. Doucett took us back in his own car; he drove. It was to a place near Kentville. He spoke with Mr. French and we visited with our friends and then, I am not sure if he drove us back or not.

Q. Is there anything more.

A. No.

(Signed) Stanley Valant.

10.40 a.m.

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MR. BECKETT, Q.C.: What is the verdict of this Committee?

THE CHAIRMAN: It was announced a while ago. The verdict is the charges have fallen to the ground, rather heavily.

MR. BECKETT, Q.C.: I move we adjourn.



MR. COLLINGS: I second that motion.

(Motion agreed to unanimously).

THE CHAIRMAN: Then the meeting stands  
adjourned.

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---Whereupon at 3:41 o'clock p.m., the further proceedings of this Committee adjourned sine die.

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# **P R O C E E D I N G S**

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**of the**

**Select Committee of the Ontario  
Legislature appointed to enquire  
into matters concerning certain  
Divisions of the Department of  
Highways.**

**MR. A. KELSO ROBERTS, Q.C., CHAIRMAN**

**PRESIDING.**

**MR. V. J. JOHNSON, SECRETARY.**

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**TORONTO, ONTARIO,**

**TUESDAY, JANUARY 25, 1955**

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T W E N T Y - S I X T H                      D A Y

Toronto, Ontario,  
Tuesday, January 25th, 1954,  
11:30 o'clock, a.m.

- - - - -

Mr. A. Kelso Roberts, Q.C., Chairman,  
Presiding.

- - - - -

The further proceedings of this Committee re-  
convened pursuant to the call of the Chairman.

P R E S E N T :

Mr. A. K. Roberts, Q.C. (Chairman),

Hon. Dana Porter, Q.C.,

Hon. Clare Mapledoram,

Messrs. Janes,

Herbert,

Beckett, Q.C.,

Collings,

Dent,

Wren,

Mr. F. R. Oliver (Leader of the Opposition)

Mr. W. J. Grummett, Q.C.,

Mr. V. J. Johnson, Committee Secretary.

Mr. L. R. MacTavish, Q.C., Committee Counsel.





APPEARANCES:

Mr. Harvey Cotnam, F.C.A., Provincial Auditor,  
Mr. George Spence, Assistant Auditor,  
Mr. J. B. Salsberg, M.P.P.,  
Mr. Stewart Smith,  
Mr. Peter Wright, J.C.,  
Mr. Fred Duncan,  
Mr. J. L. Zoller,  
Mr. J. D. Miller,  
Mr. W. A. Clarke,  
Mr. George Grant.

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THE CHAIRMAN: Gentlemen, I think there was a little confusion in the time. Some of us thought it was eleven o'clock, but I notice it was called for eleven-thirty, and we have now reached that hour.

I would just like to say in opening, in connection with our resumed hearing that, as members will remember, very shortly after this Committee was set up by the Legislature, and as soon as it was possible to do so after the Legislature prorogued, we had our first meeting. I think it was on the 14th of April, or thereabouts. Meetings followed until the end of June in rather rapid succession, as rapidly as it was possible to have them.

We reached a certain point at the end of June,



where it seemed it would not be possibly of an advantage to proceed further until certain charges which had been laid against a number of persons were disposed of, except in the case of an emergency. There was an emergency meeting on the 8th of September last, as everybody will remember.

The last of the trials was completed with the sentence pronounced yesterday and this Committee is now meeting to resume its duties.

In connection with the laying out of our time, perhaps we might come to a decision. I know the members would like to know what length of time may be required at these sittings. I think we should all be prepared to carry through as long as is necessary now to finish our work, and I would hope that may be done during the present week, but it will depend entirely on how the members feel. Speaking for myself, I am prepared to stay as long as necessary to finish the job.

MR. OLIVER: Just on that point, Mr. Chairman, why did you send the letter out saying "Tuesday and Wednesday"?

THE CHAIRMAN: I think that again was not intended. I think perhaps the Secretary thought, because we had said "Thursday and Friday" previously, that it was to be Tuesday and Wednesday of this week. When the date



was selected, it was not my thought that two days would necessarily be sufficient.

I would like to say that, in addition to certain evidence which will be heard, Mr. Harvey Cotnam, F.C.A., Provincial Auditor, will make a further report. Mr. J. L. Zoller will be giving some further evidence, and it is also my hope that members of the Committee will see fit to set aside a few hours to make as complete a tour as possible of all Headquarters establishments of the Department of Highways, in connection with which our Secretary has a memorandum, which might be distributed at this time.

I have spoken to Mr. Clarke and Mr. Grant, and they say to do the job properly, would take the better part of a day.

They suggested if we took a certain length of time in the morning to make a visit into the outskirts, and then come back here for luncheon, and complete the Headquarters at Queen's Park, we would be doing reasonably well.

They say that upon a few hours' notice, they can set up the tour properly, and give us all assistance and guidance to carry out the tour, therefore, we do not have to set any exact time at the moment.

MR. OLIVER: We have a number of witnesses we want to call, and I will be prepared later on today, if



it is your wish, to submit the list.

THE CHAIRMAN: Are they witnesses who are right at hand and ready, or from the outside?

MR. OLIVER: Some are at hand; others will have to be called in.

THE CHAIRMAN: This is the first intimation I had that anyone desired to call witnesses, since this meeting was called, and I will be glad to discuss that at the luncheon adjournment.

MR. OLIVER: I think this is the proper time, Mr. Chairman. The meeting was called just a few moments ago.

THE CHAIRMAN: With that introduction, I think Mr. Cotnam --

MR. J. B. SALSBERG; M.P.P.: Mr. Chairman, would you permit me, before you call the Auditor to appear before the Committee, to have a moment or two in connection with the matter I brought to your attention a couple of weeks ago?

THE CHAIRMAN: Mr. Salsberg, as far as you addressing this Committee is concerned, in relation to that letter; as I told you, I thought you should speak to counsel, and if counsel for the Committee was satisfied you could give first-hand evidence, we would have to consider the matter.

But if it is simply to make a statement, you had







plenty of opportunity, as everybody knows who sat in the House, to do that in the Legislature, and it is not my intention -- and I do not think it is the intention of any member of this Committee -- to turn this Committee into a debating society, such as can be the case in the Legislature, under the privileges you have as a member.

As far as interrupting the procedure of this Committee, and the timetable of this Committee at this time, to deal with the matter as set out in your letter, I would say this is not the moment for it, and I think you can anticipate a ruling -- if the Committee sustains it -- that the material set out in that letter is not something which is properly before this Committee.

MR. SALSBERG: Mr. Chairman, disregarding your reference to experiences in the House, I am not here to give evidence, nor to make a statement. I wish to make suggestions for the Committee's work from now on, seeing that the trials are over.

If you will permit me, I suggest you give me the opportunity to acquaint the members of the Committee with the proposals I wish to make, and then, of course, the Committee will decide, rather than you assuming the powers of the Committee.

THE CHAIRMAN: I am not assuming anything --

MR. SALSBERG: May I ask for a ruling?

THE CHAIRMAN: I have given my ruling. You are



not before the Committee at this time.

MR. SALSBERG: When will such opportunity be given to me?

THE CHAIRMAN: I cannot tell you. Please take your seat.

MR. SALSBERG: Have I the right of appeal?

THE CHAIRMAN: You have no status before the Committee.

MR. SALSBERG: No, I have no status, but I am a citizen of this province, asking for leave to appear before a Committee appointed by the Legislature.

THE CHAIRMAN: Will you please take your seat?

MR. SALSBERG: I will, when you tell me when I will have the opportunity of appearing before this Committee.

THE CHAIRMAN: Please take your seat. You are not coming here and taking the floor --

MR. SALSBERG: I assure you I will come back again, as I think I have the right to do, and it is for the Committee to decide, not for you.

THE CHAIRMAN: Will you please sit down?

MR. SALSBERG: I am protesting against your ruling for the whole Committee. The entire Committee is here, and I ask that you give me the opportunity of telling the Committee what I want to place before them,



and let the Committee decide, and not you, deciding for the Committee.

This apparently is just another scheme to railroad things through the Committee.

THE CHAIRMAN: We will hear Mr. Cotnam at this time.

H A R V E Y      C O T N A M, F.C.A.,

Provincial Auditor, a witness previously heard, now recalled, and who having been re-sworn, continues his testimony as follows:

BY THE CHAIRMAN:

Q.      Mr. Cotnam, you have been good enough to appear on two or three occasions with interim reports to this Committee, and at this time I see that you have a report which I presume is in the nature of a final report to the Committee.

A.      Mr. Chairman, before I read this document, may I ask a question?

THE CHAIRMAN: Certainly, Mr. Cotnam.

THE WITNESS: I am wondering if, during the reading of this document, I should make some errors, may they be attributed to bifocal trouble.

MR. OLIVER: We have had that experience before.

BY THE CHAIRMAN:

Q.      Do you propose to read the statement?



A. Yes, I would like to read it, sir.

"Mr. Chairman and Gentlemen:

"This, I believe, is my fourth appearance before you. The courts have now disposed of the criminal charges which were pending at the time of my last appearance. Therefore I am now in a position to give you a report in connection with matters affecting the Department of Highways.

Primary objective of the Enquiry

"As Provincial Auditor, it is my duty to assist governments in office from time to time to maintain and develop the best business methods and systems possible. My current investigations in the Department of Highways have been continuous for approximately a year and a half. I have had able assistance and advice. A year ago the Government appointed Messrs. J. D. Woods and Gordon Ltd., Management Consultants, to survey the organization and administrative practices of the Department of Highways, and their report, dated May 14th last, has been made public. I am pleased to report that substantial and far-reaching changes have been effected in the Department. The changes, in most cases, were generally along the lines of the report. One of the requisites of all governments in times of great change such as the present is that there should be a constant challenge and scrutiny of methods of doing business to make certain that they are the best. It is natural enough to assume that what has been done in the past has stood the test of time





"and is not capable of improvement. I do not wish to detract from the value of experience but, it is my belief that this attitude is not adequate to meet the requirement of the present times. The changes in the tempo of Canadian business, including government business, have been remarkable. One has only to examine the Public Accounts of the Province to see a reflection of the growth of Ontario and with it the growth of public business. It seems logical to me that methods which appeared to be quite sufficient and satisfactory in previous years may become completely outdated and outmoded with the volume and pressure of business today. What is assumed to be the last word today may be outdated tomorrow. It is necessary that there should be a constant alertness in every Government department with a view to improving practices and methods. What was satisfactory for business one-fourth the size of the present volume may have become completely unsatisfactory

"The new departmental re-organization went into effect last May. The spirit of the organization has been one of constant alertness for the possibility of better methods and better ways of carrying out its task. The objective has been many times stated of giving to the Province by way of organization the best that can be found anywhere. This attitude, to be effective, must be one which is constantly present. Within the



"limits of reason the Department should never be satisfied that it cannot be better. It is this view point and spirit that underlies progress and will keep the Department ever fit to meet the requirements of the future, which are going to be great. I point out that my position of Provincial Auditor is not as an employee of the Government in office from time to time but as a servant of the Legislature. I therefore consider it to be my primary task to contribute to this end.

"The re-organization, which is known to this Committee, I am glad to say is founded on an alertness and a confidence which speaks well for the future. The irregularities which took place and have received great publicity and great scrutiny should by no means reflect on the personnel of the Department of Highways generally. This Department, over a great many years, has given loyal service to the Province and has accomplished great things. That should be borne in mind. The new organization as would be expected with the development of new practices and methods was met with many difficulties at the outset. I am glad to say, however, that these difficulties are diminishing. Improvement will be forthcoming from an organization which is working together and is anxious to review the results of the experience which it has obtained and eliminating weaknesses when and where they occur and bettering practices to prevent recurrences. This



"process is one which must be continuous, particularly with the programme of work which it is apparent will be done in the future and the possibility of changing conditions under which it must be performed.

"It is my feeling that the real benefit to the Province in the investigations which have taken place is the assurance that they have been impartial and searching, and that the steps taken to remedy defects which have been disclosed have been designed to remedy weaknesses, to prevent irregularities and to improve organization and administrative practices with a view to having and retaining only the very best.

"Bad Methods with Fair Intent

In making this report to you I point out that there is a great difference between methods good or bad which are founded in honesty and those which are founded in dishonesty. Errors in judgment or mistakes which are made under the pressure of a great volume of work can, under many circumstances be excused, provided of course there is present the will to lessen them in the future. Where practices are dishonest however, they simply cannot be tolerated under any conditions. In making my report to you I shall discuss both of these matters.

"I shall give to the Committee analyses of Highway Construction contracts for grading, surfacing, paving, bridges, etc. for the years 1949 and 1951 completed as of April 28, 1954, and 1952 completed as of December 31, 1954.



BY MR. OLIVER:

Q. That means it is not complete yet?

A. I brought that up, Mr. Oliver, because I thought it would give the committee some information.

The contracts were completed as of April 1. The 1952 contracts were not in existence as long as the others and I thought by bringing this up to December it would be more helpful to the committee. In other words, there were some 30 contracts completed between April and December.

BY THE CHAIRMAN:

Q. Do you want to deal with the schedules now?

A. No. I just wanted to put that before the members. I will now go on.

"It will be apparent to the Members who are now familiar with the subject that there may be a great difference between the original tender and the final expenditure. This by no means implies dishonesty, although it illustrates the necessity of a betterment of methods.

"It is fair to point out that there has been in the Department of Highways a difference in viewpoint as to the necessity of preliminary engineering. The former Chief Engineer, Mr. C. H. Nelson, apparently took the view that preliminary engineering was not a vital requirement, but that the true test was in the settlement of the contract. I shall explain this at







"greater length. One objection to this point of view is the very evident difficulty in budgeting for work. Good preliminary engineering gives the grounds upon which judgment can be found as to whether to proceed with the work or not. It is my judgment that good pre-engineering is a prerequisite to every highway contract. It should be pointed out however that in some of the cases investigated the specifications had to be changed through no fault of the Department during the course of the work. It should be recognized that the Department was working under great pressure with a great backlog of work and with changing conditions. There are a number of cases during the progress of work where contracts had to be changed from lesser standards to the high standard of Trans-Canada Highway requirements. These things would eventually cause "over-runs."

"In Highway work the amount of the successful tender does not constitute a firm over-all price for carrying out the work. For instance, a tender worked out on the unit prices contained in the same might on the first estimate amount to a million dollars. The contract is not let for that sum because in the actual carrying out of the contract the amount may be greater or lesser. Before calling for tenders the Department prepares estimates as to the quantities of work



which will be involved in each contract (e.g. number of acres to be cleared, number of cubic yards of earth to be moved, number of tons of granular material to be laid, etc.). The contractor inserts his proposed unit prices against these contract or estimated quantities on the tender form. The quantities are extended at the respective unit prices, and the total of the resulting extensions represents the amount of his bid. The contract is then awarded to the contractor with the lowest total bid. The total bid, however, immediately loses its significance once the contract has been awarded, for payments to the contractors are based on actual quantities of work performed on the job as it progresses. The unit prices at which the contractors bid remain the same but the quantities may be greater or lesser; it is quite obvious that in the case of contracts changed in the course of construction such as the Trans-Canada contracts, that the quantities would be greatly increased. If pre-engineering is not done on a fairly accurate basis, and it must be recognized particularly in a rough terrain that there will be some difference in pre-engineering estimates and in the actual results, there can be over-runs of a considerable amount. It would follow that if the pre-engineering estimates were too high, which could be a fault equally as bad as having



"them too low, that there would be an under-run. Neither of these cases imply dishonesty, but, as I have stated, they could indicate the need for a betterment of methods and practices.

"The inaccuracies in many of the original estimates were generally the result of inadequate planning and engineering. Due to post-war conditions, lack of staff, the immense increase in the amount of work to be done and the pressure to get work started resulted in many tenders being called without sufficient time being allowed to do the survey work required to arrive at accurate estimates of the quantities to be moved. As a result it became necessary to make rough guesses which often proved wide of the mark.

"I have referred to the fact that plans and specifications were frequently changed after the contract had been let. This was particularly so on roads designated as Trans-Canada highway where the specifications had to be made to meet the requirements of the Trans-Canada agreement. These changes were often of such magnitude as to increase considerably the quantity of work to be performed and this was particularly true of certain contracts in the northern area of the Province. These contracts had been let on the basis of the Department's regular standards for highways in that area. In some cases they had



"been let as paving contracts but were then changed over to Trans-Canada standards after the signing of the agreement between Ontario and the Federal Government for the construction of the Trans-Canada highway. In other cases revised specifications were adopted as a result of recommendations received from the Soils Branch. Because of such recommendations the depth of granular material on the road might be substantially increased, etc. All of these changes had the effect of increasing the quantity of work to be performed and of course rendering more unrealistic the original estimate.

"Although lack of preparation of original estimates and changes in plans and specifications after the contract had been let likely account for the largest proportion of the dollar value of over-runs in the period examined, my review indicated that certain other factors were probably responsible as well. In some cases the over-runs may have been due to unforeseen circumstances. In cases of muskeg sections, for example, it is most difficult to estimate the amount of material which will have to be used as fill, and the amount of fill actually required can often be greatly in excess of estimates which were felt to be reasonably accurate before construction commenced. Even in such cases as these, however, the margin of error could probably have been re-





"duced had the Soils Branch been able to carry out a more extensive programme of deep boring tests.

"As a result of the above, contractors have complained, and with probable justification, that because of the departmental estimates which they received and the changed conditions and alterations in plans, etc. that they frequently found themselves in situations where they stood to lose substantial sums of money if they were forced to complete the work strictly in accordance with the terms of the contract and on the basis of the original prices. In this blame must also be attached to the contractors in that they may have bid too low on original unit prices because of their desire to get the contract. These situations led to demands by the contractors for assistance and there does not appear to have been a tendency on the part of some of the Department's engineers to be generous in their interpretation of the terms of the contracts. In fact, there may have been a feeling generally held that the contracts were really not fair. It is quite evident that if the estimates called for the moving of a certain amount of granular material that the contractor's price would be influenced by its location. It might be that there would be sufficient granular material readily at hand to meet the requirements of the contract. With a change however and with great additions



"to quantities it might be necessary to haul this material for distances and from places not originally contemplated.

"In this connection I quote from page 13 of the Report of J. D. Woods and Gordon Limited, Management Consultants, to the Minister of Highways dated May 14, 1954, which appears on page 276, Vol. 11 of the transcript of this Committee's proceedings:

"It was possible for them to assist contractors in a number of different ways. As is described later herein, certain engineers were required to classify the quantities of boulders which should be paid for at rock prices. This is largely a matter of opinion and on occasions the classification would appear to have been made on a liberal basis. In some cases where the contract called for the movement of earth the quantities moved were paid for at prices applicable to granular material.(Granular material may actually have been moved although not called for by the contract). On other occasions contractors were permitted to place a higher grade of material on the road than the contract called for. In these instances we are informed the unit price



"for the material actually handled was higher than the price which would have been paid for the material specified in the contract. On some occasions the contractors were permitted to over-build the roads and paid for moving quantities in excess of those called for by the contract."

"I say without hesitation that this practice should not be countenanced, and I am glad to say that under the new organization this situation has been met and remedied. The system was a haphazard one which simply would not fit into the requirements of the future. It was not a good way to do business. The Department of Highways requires an engineering system which will provide adequate pre-engineering, engineering controls, checks and balances throughout construction and maintenance periods. Such a system should be integrated with a system of finance and accounts for control and efficiency of operations, for regularity, for forecasting, for management and ultimately for policy. It is imperative that the elements of such a system be provided so far as imperfect human pre-vision can devise them, to the end that on the practical side there be no breakdown financially or operationally irrespective of any demands made upon the Department.



"Dishonest Practices

"As I have stated, there is a great difference between systems which are inefficient and capable of betterment, perhaps growing up over many years, but based, nevertheless, on honest judgment, and those which are based upon dishonest practices, and to this I shall refer. In doing so may I point out that an auditor is entitled to accept certain professional certificates; certificates of architects, solicitors, medical men, engineers and the like are of necessity accepted unless on their face they arouse suspicion or are defective. In this case and in view of the irregularities disclosed in the Fort William Division, I felt that it was my duty to adopt a course which perhaps in any government audit heretofore has been regarded as unheard of. I felt that I should question the engineering records, which I did, and it was there that I found conditions which justified taking certain criminal proceedings referred to later in my report. Methods which have become outmoded and outdated can be corrected if there is the will to do so. Where, however, matters are founded in dishonesty, it is an entirely different matter. In going into the engineering records, I found that falsification had been adopted to assist contractors. This resulted in overstating the quantities of work done, and was accomplished by falsification of monthly and





"final payment certificates, which were subsequently substantiated:

- (1) By fudging the original cross-sections of the road or borrow pits, i.e., the cross-sections outlining the position before excavation. When these raised originals are compared with the final cross-sections (after excavation) it appears that more material has been moved than was actually the case, and/or:
- (2) By fudging the final cross-sections so that the final outline of the road or borrow pit appears lower or wider than it really is. This again will make it appear that more material has been moved than was actually the case.

"Falsification of engineering data as a method of assistance to contractors differs from classification and other methods discussed above in that its result is hidden from examination and approval of engineering judgment.

"If you will permit, I desire now to turn to the matter of my investigation of Contracts of the Department. Earlier in your hearings I reported upon the fact that information had been uncovered which indicated wrong doing in Fort William and Huntsville Divisions. I also reported to you (page 21, Vol. 1) as to the steps taken to assure



"that no falsification of engineering records was still being carried on. In addition it was arranged that Messrs. Clarkson, Gordon & Company, should begin an overall examination of the Contract records at Head Office with a view to seeing what indications there might be of irregularities having occurred in other Contracts in other divisions.

"This survey did not reveal any indications of evident wrong-doing in other divisions and consequently, a further approach was made to the problem by analyzing the cost per mile in each division for earth, rock and granular material moved. This analytical study did not disclose unreconcilable costs per mile figures for divisions other than Fort William and Huntsville. Thus I am led to believe that falsification of records pertained to these two divisions.

"In the course of my investigation I had complete freedom of action, and was afforded all the technical assistance requested. At no time was any impediment placed in my way by any level of government.

"Since my last appearance on June 28, 1954, the charges of Fraud against Tomlinson Brothers Limited, Bergmann Construction Company Limited, and Standard Paving Limited, have all been heard by the courts and in each case the accused pleaded guilty. Tomlinson Brothers Limited were fined \$100,000; Bergmann Construction Company Limited, \$65,000; and Standard Paving Limited, \$50,000.



"In addition Mr. A. M. Mills, former Division Engineer at Fort William pleaded guilty to a charge of Breach of Trust and was sentenced to 18 months' imprisonment which sentence was suspended and in addition was fined \$3,500.00 or 6 months in gaol. Also, Mr. Donald Patterson, former Division Engineer at Huntsville pleaded guilty to a charge of Fraud and was sentenced to a fine of \$3,000.00 or 6 months imprisonment.

"As you no doubt are aware charges were laid against certain officers and representatives of the companies charged, departmental employees and a Federal Trans-Canada inspector, which charges were subsequently not proceeded with on advice of Crown Counsel and for the reasons outlined by him in the court proceedings, copies of which have been supplied to you.

"In order to assure the fair trial of the accused, and make the fullest public disclosure of the nature of the Crown's evidence the charges in each case were commenced in Magistrates' Court and not by presenting a bill of indictment to a Grand Jury whose proceedings are secret, an alternate procedure which was available to Crown Counsel. In each case a preliminary hearing was held, where the Crown's evidence was submitted and the defence was given a full opportunity of examining the evidence and calling any additional witnesses that they desired.



"Another matter arising from our investigations was the arrest, trial and conviction of certain Highway Personnel at the Lakehead. Their trials took place at Port Arthur on June 7th and 8th, 1954. The first charge was one of Conspiracy to Defraud against Douglas F. Cutting, Donald T.Gandier, Thomas L. Ayres, and Graham W. Turner. All pleaded guilty. Cutting, Gandier and Ayres were sentenced to eight months' imprisonment and Turner to six months. In addition, Cutting, Gandier and Ayres were charged with Fraud, pleaded guilty, and were sentenced to six months each concurrent with the previous eight months sentence. In this connection I should point out that the conspiracy and fraud charges related to altogether different sets of circumstances. In the conspiracy there were two trucks involved and the proceeds were split four ways. In the fraud charges the proceeds from the illegal action could be clearly traced to the individuals concerned. While dealing with this matter I should like to emphasize two points: Firstly, the fraudulent acts carried on by these individuals were done on their own initiative and not at the instigation or instruction of any senior official. Secondly, they were carried on solely with the motive of personal gain. These considerations point out the complete incomparability of these cases with those relating to the dealings of the Highways' personnel with contractors.





"Gifts

At this time I wish to refer to the matter of gifts. In reading the proceedings of this Committee, evidence on this matter has been presented not only in Ontario but in other jurisdictions. I include an excerpt from the Report of Messrs. J. D. Woods and Gordon Limited, page 39, which reads as follows:

"The practice of many of the contractors in the road building industry in Ontario has been to give presents and do other favours for Department employees. Quite probably this practice has grown up over the years and initially it may have been confined to taking gifts at Christmas or on other occasions. Various companies however have tried to outdo each other and the monetary value of such favours has increased. This creates a difficult situation for Departmental employees and is costly to the contractors who presumably would like to discontinue the practice if their competitors would do likewise. We do not believe there can be any half measures in a matter of this kind and if the situation is to be controlled the whole practice should be stopped. We recommend that all Departmental employees be informed that in future no favours of any kind are



"to be accepted and that any infringement of this regulation will result in instant dismissal quite apart from the possibility of the employee becoming liable to criminal prosecution. The regulation should be rigidly enforced regardless of who is involved or what the amount may be.

"We recommend also that the pre-qualification regulations should contain a clause providing that any contractor found offering a present or other favour to a Departmental employee will automatically become ineligible for any further work. This regulation should be rigidly enforced."

I should like also to add a few words of my own.

BY THE CHAIRMAN:

Q. Mr. Cotnam, by quoting that you are not at this point necessarily supporting it?

A. I think I will clear that up a little later. I do support it, as a matter of fact, but I have one difficulty which I would like to mention.

The acceptance of gifts, unfortunately, has become a custom, no doubt grounded in good intentions, which has been adopted by many lines of business. I quote an excerpt from a copy of a letter which came into my office written by one of the great Canadian corporations, addressed to its suppliers.



"This letter shows that the problem is a wide one and that others have and are taking action:

"I wish to call your attention at the same time to the long standing policy which prohibits our people from accepting gifts or favors of any kind from those with whom we do business. May I ask your co-operation in its observance not only in the present Christmas season, but throughout the year so that we may continue our relationships strictly on the merits of the product and service rendered, in the way that has proven so mutually satisfactory in the past."

BY THE CHAIRMAN:

Q. Would you have any objection to saying what type of business that company carried on?

A. That company was a manufacturer of motor vehicles.

"On instructions from the Government, contractors and suppliers through their associations were advised, that in future no gift of any kind may be given to any departmental employee and this has become the rule.

"In connection with gifts generally may I say that in my mind there is a difference between a gift which might be interpreted as a bribe or connected with wrong doing and a gift of an innocent nature. In my investigations I found few instances which could be interpreted as falling into the former category, but in those instances action was taken and those transactions formed part of the criminal proceedings instituted."



BY THE CHAIRMAN:

Q. You say:

"On instructions from the Government, contractors and suppliers through their associations were advised, that in future no gift of any kind may be given to any departmental employee and this has become the rule."

That is something new?

A. That is right.

Q. Just so the Committee will be clear on that. Is there any serious penalty put on a Departmental employee in relation to that, under that rule?

A. Of course, one of the difficulties, gentlemen, in connection with this matter, is the matter of enforcement. That is the thing which gives me some concern; just how you would enforce it.

I think the principle is good. I support all these things, but I do have some concern about how you would enforce it.

Q. You say that the contractors and suppliers were told that no gift of any kind may be given. I was wondering if there was anything in connection with the reception of the gift at the moment, which was any different from that in effect in the past.

A. These instructions are instructions which came into being since the Committee began its proceedings.





Q. They are instructions to contractors and suppliers?

A. Very definitely.

Q. And there are no instructions at the moment issued to employees? Is that right, or am I wrong?

A. I think that appertains to employees equally.

BY MR. JAMES:

Q. Following that up, Mr. Cotnam, the unfortunate part of these gifts, and the reason for their being objected to is Mr. Gordon's statement. I think he makes it too sweeping.

A. That is my point precisely.

Q. He objects to the whole Department accepting gifts, to which I object very seriously. I do not think that can be done. It may be wrong, but I object to his making such a sweeping statement that involves all employees.

BY MR. OLIVER:

Q. Do you think there can be any half-way measures in the giving of gifts?

A. No, I do not think so. I think we must have them all stop and cease.

Q. You cannot say that a gift of a certain value is alright, while another gift of perhaps greater value is wrong? From the statement he gave, the whole thing



is wrong, and should be wiped out.

A. What you might deem as a gift being inconsequential I might think was of some consequence, and what I might deem one as being inconsequential, you might think otherwise.

Q. Was the fact that gifts were given a factor in the trials themselves?

A. The point was, Mr. Oliver, that the contractors pleaded guilty to the criminal proceedings instituted, and as you will realize, having read the evidence given at the preliminary hearings, we think that is a factor.

BY MR. WREN:

Q. Then I think perhaps I have missed something. I did not notice anything in the trials where there was any mention of gifts. I may have missed part of it.

A. Very definitely there was.

Q. There was evidence taken in that regard?

A. There was evidence given at the preliminary hearings concerning gifts, and trips, and so forth, for instance, I think the Barbadoes and Bermuda, and I think in one instance, there was some real estate transaction referred to in another trial.

BY MR. OLIVER:

Q. Were those not paid for by the recipients?

A. Not that we were able to ascertain, Mr. Oliver. Of course, the thing did not come to trial, and it was



not proven one way or the other.

Q           You would think that would be one of the things which would be settled by the trial itself.

MR. GRUMMETT, Q.C.: If they had not pleaded guilty.

THE WITNESS: It would have, yes.

BY MR. WREN:

Q.           Did you feel by pleading guilty that they admitted the gravity of the offering and acceptance of gifts?

A.           I do not think, Mr. Wren, you can segregate --

BY MR. GRUMMETT, Q.C.:

Q.           The crime for which they were charged was not the acceptance of gifts.

A.           No, that was impossible. I do not see how you could do it. I may be wrong about that, not being a lawyer.

BY MR. OLIVER:

Q.           If the conspiracy had been proceeded with, Mr. Cotnam, in all probability the evidence relating to gifts may have come out in full?

A.           Mr. Oliver, I would not be able to answer that question. I think it is a little beyond me.

Q.           I understood you to say that the evidence relating to gifts did not come out, because they pleaded guilty.



A. No, I did not say that. I said criminal proceedings were instituted, and it was not proven one way or the other.

Q. It was left in the air, was it not?

BY HON. MR. PORTER:

Q. Evidence was given as to gifts in certain preliminary hearings?

A. That is right, yes.

Q. And at the preliminary, of course, there is not any defence put in, and whether or not the court would have ultimately decided that there were proper or improper gifts, we do not know.

A. That is right.

HON. MR. PORTER: The prima facie evidence was there.

BY MR. OLIVER:

Q. You would have known, Mr. Cotnam, if the conspiracy charges had been proceeded with?

A. No, I would not necessarily say that would be so.

BY HON. MR. PORTER:

Q. Gifts were made before the convictions, as I understand it.

A. Yes; that is what we alleged.

Q. I do not recall that there was any evidence to point these gifts to any of the individuals charged.





MR. OLIVER: As I recall, from reading the evidence, the charges had been made that gifts had been given, and on the part of the accused, it was said they had been paid for. It stopped there. We do not know what would have happened if the trials had proceeded.

THE WITNESS: No, definitely not.

BY MR. OLIVER:

Q. Somebody would have had to prove it one way or another, but there was no proof offered one way or the other.

A. No, because the contractors pleaded guilty.

BY MR. WREN:

Q. In your allegations, did you form any opinion as to the value of the gifts in that particular case? Were they substantial, or relatively small?

A. We thought they were sufficient to put these people on their trial.

BY MR. OLIVER:

Q. You say, "They were sufficient to put the people on their trial"?

A. Yes.

Q. Were they not sufficient to proceed with to the ultimate conclusion?

A. Mr. Oliver, if a contractor pleads guilty, I do not think you can take out any one part of what he is charged with, and go ahead with it.



Q. They pleaded guilty to a lesser charge?

HON. MR. PORTER: No, they pleaded guilty to the senior charge.

MR. OLIVER: Of conspiracy to defraud?

HON. MR. PORTER: Of conspiracy, yes, and that involved the lesser charge, the substantive charge was fraud.

THE WITNESS: I do not think you could proceed with the substantive charge, if the other was a charge to which they pleaded guilty.

THE CHAIRMAN: I hope while we are sitting, the members will take the time to read the evidence given at these trials, because there is a great deal of information in it.

I think when we come to write our report, we will make use of information contained in the evidence.

BY MR. OLIVER:

Q. I was going to ask you, Mr. Cotnam, was the giving of gifts a factor in the Patterson case?

A. There was some evidence came out in the preliminary hearing.

Q. I understood the Crown to say there was no evidence of personal gain in the Patterson case.

A. There was no positive proof of it. There was a contention, but no proof.



BY MR. WREN:

Q. Well, Mr. Cotnam, I am not a lawyer, but how would you decide to lay these charges? You must have felt there was a good deal of evidence.

A. Mr. Wren, the charges were not laid on gifts alone. The charges which were laid in the Bergman case -- the case of the Bergman Construction Company -- for instance, was for the falsification of records, and we thought the Division Engineer was a party to that fraud, and that was the primary thing with which he was charged.

BY HON. MR. PORTER:

Q. The evidence of gifts was only to support the main evidence of the falsification of accounts by the Engineer, and if it was shown that he had received certain gifts at that time, it would have strengthened the case against him.

If you cannot show the gift is some evidence of falsification --

MR. GRUMMETT, Q.C.: On top of that, Mr. Attorney General, if evidence had been produced before the court showing the nature of the gifts, and what was given in the way of gifts, that might have led to a greater sentence. That would have given the magistrate a much better picture.

But if they go there and plead guilty, and very



little evidence is adduced by the Crown, the magistrate is at liberty to give him a minimum sentence.

HON. MR. PORTER: Surely, if a man pleads guilty, you cannot bring in evidence of some controversial matter.

MR. GRUMMETT, Q.C.: Quite often a magistrate will not sentence a man until he has heard the evidence of the Crown, even if he pleads guilty.

THE CHAIRMAN: In all these cases, the Crown produced evidence.

MR. GRUMMETT, Q.C.: At the preliminary hearings.

THE CHAIRMAN: At the trials, too.

MR. GRUMMETT, Q.C.: I do not think there was sufficient evidence given to make a clear picture.

THE CHAIRMAN: We will go into the evidence a little later. I thought the Crown counsel was very clear that there was no evidence of gifts; in fact, he was asked by one judge if he went into it carefully, and he said he had made a particular investigation, and found not evidence of gifts. I think we can draw the conclusion from the evidence. I do not think it is fair to ask the witness what took place at the preliminary hearings.

MR. GRUMMETT, Q.C.: But there was a very brief reference to it. It was not sufficiently put before the judge.

THE CHAIRMAN: In the sentencing of Mills and Patterson, there was a question asked by the court, before





they passed sentence.

MR. BRACKETT, Q.C.: I do not think this witness should be asked, if certain people pleaded guilty, and certain facts were given, what would happen.

THE CHAIRMAN: This arose out of the question of whether Mr. Cotnam was recommending that we should go all the way and say "No gifts of any sort should be allowed to be accepted by any employee".

That will be open for discussion amongst the Committee a little later on.

MR. BRACKETT, Q.C.: Does it not go without saying that an employee should not accept gifts. I do not think he needs special instructions from the Department.

THE CHAIRMAN: If we are going to make any finding on this ourselves, we will have to discuss it pro and con, as to how far the report should go.

THE WITNESS: (Reading):

"Reasons for terminating investigation

In relation to the investigations, I again point out that my position of Provincial Auditor is not as an employee of the Government in office from time to time but as a servant of the Legislature. I have been given a completely free hand, as has the Crown Counsel, Mr. C. L. Dubin, Q.C., who was



retained with my concurrence. To bring the matter up to the present moment, I should like to refer to the matter of further investigations. As I said at the outset, my investigations were directed towards discovering all weaknesses in the systems that existed, and making recommendations for their betterment with a view to giving the Department and the Government the advantage of the very best experience which could be gained anywhere. I consider this to be primary. I have described my investigations into engineering practices and the course which I recommended should be taken and was taken. I recommended prosecutions in every case where there was sufficient evidence to warrant such procedure, and the recommendations were carried out. I felt, in view of the matters which I have revealed in this report, that proceedings should not be taken against employees who were in subordinate positions and took orders from senior officials unless there was clear evidence of personal profit or gain by them. I believe that the investigations have been made and proceedings taken with complete impartiality. In connection with investigations in relation to practices which do not involve any criminality my feeling is that there is little to be gained, in



fact, nothing to be gained by further investigations, for the reasons which I now give. If further investigations were to be conducted in this matter they would involve great expense -- examining the road in each case, re-checking original cross-sections, re-checking final cross-sections, taking soundings of muskeg fills, examining borrow pits, etc. This would involve a tremendous amount of work. I understand that it would take an engineering staff of three men approximately one week to re-measure one mile of road. Additional time would be needed to plot cross-sections and calculate quantities moved on the basis of the survey figures. The re-measurement of any sizeable number of contracts would require many months to complete and might possibly extend over several years with great expense."

BY MR. OLIVER:

Q. May I ask, might that possibly be accurate?

A. The re-measurement of that?

Q. Yes.

A. No, I do not think it could.

Q. You think it could not?

A. I do not think it could possibly be completely accurate.



Q If it could not be accurate, how will you pay the contractors?

A. I am speaking of the re-measurements.

Q. I know, but for work that was done? How can you pay a contractor, if you cannot be sure of your measurements?

BY THE CHAIRMAN:

Q. Are you speaking of the contracts which are not in question, or the contracts which are in question?

A. No, I am speaking of contracts not on which we have taken court proceedings.

Q. You are speaking generally?

A. That is right.

Q. I think that should be cleared up.

. Any cases which are under investigation; is there any difference from what you are speaking of now, where you have not examined the contracts, and do not see any particular reason for examination?

BY MR. OLIVER:

Q. How could you tell me accurately what information there is of the ones you have not examined, -- not as accurately as those you have.

A. This is really the crux of the situation. In several of the cases in which we were in court, we had the records which were available to us before the





falsifications took place, so that we were able to measure up those things -- or the engineers would -- and determine them with accuracy.

In other words, the falsifications had not yet been carried out, and the contract was paid for, and the engineering records which were seized enabled us to make an accurate estimate.

BY MR. WREN:

Q. Is there any complete record now of the Atikokan Highway?

A. I think the Atikokan road -- the original records were falsified, and not available.

Q. How will these controversial claims be settled?

A. You can measure up the road again through measuring the fill sections. You pay for the road by taking the excavations of the borrow pits, and other measurements can be made with reasonable accuracy.

Q. I have a picture here (indicating) of the rock fill and muskeg on the Atikokan road. I do not know -- but I am supported by considerable engineering opinion -- that it would be impossible to estimate by after-measurements, the work that was done on that road.

In this illustration, for example, (indicating), it was in the rock cut. How would an engineer determine where the rock started, and where it ended?



MR. COLLINGS: That is a question to ask the engineers, not Mr. Cotnam.

THE CHAIRMAN: I think the point Mr. Cotnam mentioned is quite different from that of which you are speaking, Mr. Wren. There are two things here. Mr. Zoller may tell us later what the position is of the contract under review, and Mr. Cotnam is speaking of the over-all picture of contracts under review.

BY THE CHAIRMAN:

Q. You feel you have gone as far as you think there is any practical sense in going? Am I right?

A. Yes.

THE CHAIRMAN: Well, let us not confuse it.

MR. WREN: I am not trying to confuse it. In fact, I am trying to avoid confusion, while Mr. Cotnam is on that point.

I am trying to get fixed in my mind how it will be possible to settle the controversial contracts.

THE CHAIRMAN: You do not want to make it any more difficult by confusing the issue?

MR. WREN: How do we know that the three Companies which were charged were the only ones which were receiving over-payments to which they were not duly entitled?

HON. MR. PORTER: Those were the only cases in



which sufficient proof was found. Things may have gone on which we could not prove. There were other books of other Companies which were seized, but apparently there was no proof.

MR. WREN: How can we prove all these controversial contracts? If there was a civil suit to recover the over-payments, how can we prove they were overpaid?

HON. MR. PORTER: We may not be able to.

HON. MR. MAPLEDORAM: The original records may have been destroyed.

HON. MR. PORTER: If a civil suit comes up, this would all have to be gone into. There may be old books concerned.

MR. WREN: Was there any criminal charge started with regard to the destruction of records?

HON. MR. PORTER: That is not a ground for a criminal action, because it is the destruction of the company's records.

MR. WREN: I understand some of the Government's records are not available.

THE WITNESS: That is right.

MR. WREN: If Government records were missing, there may be some contractors' records missing, but the crux of the matter is some Government records were missing.



MR. COLLINGS: I think perhaps the member (Mr. Wren) is referring to some little shack which burned down.

MR. WREN: No, not at all. No; I am speaking of something in which there is one-half million dollars at stake.

THE CHAIRMAN: I think what Mr. Cotnam is saying at the present time is that he has completed his investigation as far as it seems to him practicable to do so. That does not mean they are not continuing with those which they have singled out as open to question.

I think we should go on, and let him finish developing his ideas, because I think we are simply confusing it by bringing in these other matters.

BY MR. OLIVER:

Q. Mr. Cotnam, may I ask you this? Was the decision to postpone other investigations, or not to proceed with them, based on the difficulty you had experienced in getting concrete data and figures as to quantities in the contracts you were investigating?

A. No, Mr. Oliver. The situation was this: when we ran into this difficulty, we had to determine where we were going to go in regard to contractors' offices. We went into as many contractors' offices as we thought we could properly service at that particular moment. Having





once gone in, you cannot go in again, because it is not feasible to go in to get what you expect to find.

We went into six contractors' offices, and out of those, we were only able to lay charges against three contractors.

BY HON. MR. PORTER:

Q. And in all those cases, those were cases where you had reasonable ground for going in?

A. You had to show that, before you could get a search warrant.

BY MR. OLIVER:

Q. But reasonable grounds might exist in relation to other contractors in connection with their contracts and you were able to substantiate three, because they happened only two or three years ago, but as to anybody else you cannot say what the quantities were, nor anything else, because the passing of time has made it impossible to accurately gauge the amount of quantities in relation to those contracts, and the methods used by the Department as a whole.

THE CHAIRMAN: He has gone as far as he can practically go.

MR. OLIVER: I realize that, but that may not have been far enough.

THE CHAIRMAN: Let us ask Mr. Cotnam.



BY THE CHAIRMAN:

Q. Do you feel there is any further investigation with respect to any single contract which should be made, or which you think should be made?

A. I know of none.

MR. BECKETT, Q.C.: He said that before.

MR. COLLINGS: I am glad to hear him say that, because if we allowed the other to go, there would be a cloud over other contractors.

BY MR. WREN:

Q. Let me put the question in this way: what certainty have you of the extent of over-payments to contractors during the years under investigation?

A. Mr. Wren, of course --

Q. I am looking at this as a citizen and a member of the Legislature, and if, for example, we have given "A" company "X" number of dollars more than we think we should have done, and if you cannot establish with certainty, the over-payments, how can we recover?

A. You get into a very controversial subject as to what constitutes an "over-payment".

Q. Have you any certainty of over-payments?

A. I would like to finish my report, if I may, because I think some of this will be cleared up in your mind, when I finish.

THE CHAIRMAN: We propose to call Mr. Zoller in



regard to a statement he made some months back with regard to over-payments to bring us up-to-date on those points. Mr. Zoller may have some further details on that.

BY THE CHAIRMAN:

Q. Will you proceed, Mr. Cotnam?

A. Yes. This goes on to say:

"In my judgment this would be exceedingly difficult to do, would involve immense expense and in the light of the wide investigations I have made, I do not think it would give any more information than we already have. In the cases which would involve discretions which perhaps grew up with the Department, there is not sufficient evidence or proof that they were not exercised honestly, and the experience of these investigations appear to establish, within broad limits, that the Department received good value for the money spent. If assistance had been taken in the form of over-generous classification, such classification is a matter of individual engineering opinion and judgment and since material originally classified is no longer in its original location, and with the passage of in many cases a large number of years, it would be impossible to demonstrate that percentages allowed in any specific case were higher than they should have been."



That is exactly it. That is what I am trying to tell you.

"The courts would probably quite correctly take the view that the matter of judgment and discretion entered into these contracts and that if they were settled in good faith there would be no justification in re-opening them. In view of all the circumstances, I am quite satisfied that with the very wide investigation held that the facts of the situation are sufficiently known to avoid the repetition of errors and weaknesses of the past and to take full advantage of these lessons in the organization and administrative practices for the future.

"In regard to a number of contracts which are unsettled at the present time, these matters are being heard by a board of officials and by Dean Young who has been retained to assist in this capacity, and no doubt can be settled in many cases. In some cases, the Department has claims and in most cases the contractors have counterclaims. If just settlements to both sides cannot be arrived at, these matters may be referred to the courts for adjudication."

BY THE CHAIRMAN:

Q. That is a sort of Court of Claims as they call it,





in New York State, set up to deal with adjustments with contractors?

A. Yes.

Q. That is something new, since last we met?

A. Yes.

BY MR. OLIVER:

Q. If it is new, can you tell us who are on this Board?

A. I cannot give you the component parts of it at the moment. Dean Young is the Chairman.

BY MR. OLIVER:

Q. Is Mr. Miller on that Board?

A. No, I do not think so.

BY THE CHAIRMAN:

Q. Perhaps at lunch time, the personnel of the Board could be obtained?

A. Yes, Mr. Chairman.

"It was the unanimous contention presented at the trial of the contractors to whom I have referred that all the roads involved were of excellent quality and that the cost to the Government was not excessive, and indeed in some cases was very much on the low side. Each contractor called expert evidence to support these contentions and in each case these submissions found favour with the court. In other words, it was contended



if adequate prices had been bid in these instances the resultant cost to the province would not have been materially changed if these prices had been applied to genuine quantities. As you gentlemen must now appreciate it is difficult indeed to assess the accuracy of such evidence and even more difficult to successfully dispute it without a sound grounding in engineering principles coupled with a wide experience in actual application of these principles. For this reason I have been more concerned with the impact of a system of falsification of records on generally accepted sound business procedures. In this respect may I direct your attention to the remarks of His Honour Judge J. Pritchard in his reasons for judgment of December 17, 1954. (Page 18):

'It will be readily apparent, aside from the illegality of this transaction, that no Government Service could operate on such a basis, and that all higher levels of Government are dependent upon facts and information supplied to them by trusted servants in their employ.'

"I would further call your attention to the following excerpts from the judgment of His Honour Judge Forsyth, delivered January 24, 1955:

'---It is difficult to understand how any system could permit of such an operation on



the verbal instructions of an engineer. It could only permit of an invite corruption and bribery.' (page.121)

'On the material before me I cannot therefore come to the conclusion that the Government in fact lost any money whatsoever on the transactions, and probably got good value for the money paid. This, of course, does not condone the method used to obtain the money and I strongly condemn those who permitted such a system to prevail.' (page 123).

"Also I wish you to note the comments of His Lordship Mr. Justice Danis appearing on page 59 of the transcript in your possession:

'If the company or its officers, after commencing to do the work and to furnish the materials it was required to furnish under its contracts, came to the conclusion it was going to suffer some losses because of its underbidding, it had no right, legally or morally, to induce -- which it apparently did -- officers of the Department of Highways to falsify monthly payment certificates or any other payment certificates. This practice, as it existed in connection with these contracts, cannot and must not obtain in



this province.'

"You will see that these eminent jurists held the same concern as I, and the sentences were intended, in part, as a deterrent to such practices.

"An examination of all the data in connection with the contracts involved in court action reveals that the contractors were paid on the basis of costs rather than on one of the essential covenants of the contract, i.e., the unit price basis for computing and making payments for work actually done. Steps have been taken to ensure that tenders as let will be carried out in every detail in accordance with the terms of the contract. The result should then be that all unit prices in bids will become realistic and such as to permit each bidder to perform the contract without the necessity of seeking aid in any manner."

THE CHAIRMAN: May I interrupt there for a moment. You have given three copies of statements, and I think at this point, the Committee would be quite prepared to adopt the language and have exactly the same views as pronounced by the Judge.

Does any of the Committee object to that?

MR. OLIVER: I do not think we should do that now, Mr. Chairman. We have to have a summing up of the





situation at some time.

THE CHAIRMAN: Speaking for myself, I am quite prepared to adopt that language.

MR. COLLINGS: That is a good language.

MR. JANES: It is very sound.

MR. WREN: In the comment by His Honour Judge Forsyth, on January 24th, he says:

"On the material before me, I cannot, therefore, come to the conclusion that the Government in fact lost any money whatsoever on the transaction, and probably got good value for the money paid. This, of course, does not condone the method used to obtain the money, and I strongly condemn those who permitted such a system to prevail."

Who did permit that?

THE WITNESS: I would say certain people in the Highways Department.

BY MR. WREN:

Q. Would you think that it was coincidental that the same kind of thing took place in two different divisions, which were perhaps 800 miles removed, one being in Fort William and the other at Huntsville --

A. Where apparently the same kind of system prevailed?

Q. Yes. Would you think it was coincidental, or



part of a system?

A. I have no evidence that there was a master system.

Q. Would someone not condone it? Let us start with the low prices, or the unrealistic bidding.

Correct me if I am wrong, but it was not confined to Fort William, but also was found in a division 700 or 800 miles away.

Again, when the accused pleaded guilty, and evidence was not taken, we have no way of knowing whether or not it was universal.

A. Do not forget we had charged the Chief Engineer of the Department in connection with these matters.

MR. COLLINGS: Mr. Chairman, there is no fault to find with the unit prices? Is that not a fact? The unit prices were the bases upon which contracts were awarded?

THE WITNESS: Yes, Mr. Collings.

BY MR. COLLINGS:

Q. And the over-runs were those due to quantities based on those unit prices?

MR. WREN: If you do not mind, I would like to finish my question.

MR. GRUMMETT, Q.C.: I think it is fair to let Mr. Wren finish.



BY MR. WREN:

Q. I would like to ask the Chairman -- and perhaps the hon. Attorney-General -- if this is a proper question.

If the Chief Engineer was charged -- and, of course, we all know the unfortunate circumstance which developed -- inasmuch as he was one of the accused, would he have been called upon to give evidence, if he did not choose to do so?

HON. MR. PORTER: No.

THE CHAIRMAN: Not at the trials in which he was charged.

HON. MR. PORTER: Not unless he chooses to offer evidence. An accused has the right to give evidence if he desires, or not to give it, and if he chooses not to give evidence, he cannot be forced to in a criminal trial.

MR. WREN: As a layman, it is a strange way of laying a charge.

HON. MR. PORTER: Why?

THE CHAIRMAN: There again you will see, if you read the evidence. I do not want to get too far away in the establishment of difficulties, and say that people who might have been accused, who practiced this, should not be charged, that we should not go after the little fellows.

If the Chief Engineer had turned on everybody else -- assuming there was something wrong, and he knew



about it, which, after all, is all conjecture, and I do not think we should go into that here.

HON. MR. PORTER: One of the difficulties in all these cases was that Mr. Nelson died before these cases came to trial.

MR. WREN: The thing which disturbs me is this: I recall reading rather closely and being concerned only with the trials in respect to the Fort William Division, but Mr. Mills' counsel had certain character witnesses who appeared on his behalf, and while they may not have said so in so many words, the inference was -- and I think it is very clear; again, I am not a lawyer, and there might be something between the lines which I did not interpret -- but the inference was there, and knowing the minds of men, they might agree with it, that the particular engineer was not dishonest in himself, he was only dishonest in that he carried out instructions from a superior officer, which he probably should not have carried out.

What I want to see in the work of this Committee is from where those instructions emanated. We do not want to punish the little fellows unduly.

THE CHAIRMAN: Anyone who was called before this Committee -- Mr. Miller told you very clearly that he had nothing to do with it, and I have no reason to question his evidence.

We then called some of the heads of the Department





and they all said they had nothing to do with it.

If there is any other person to be called, we should clear it up, but we cannot simply guess at these things.

MR. COLLINGS: May I ask Mr. Cotnam a question?

THE CHAIRMAN: Certainly.

BY MR. COLLINGS:

Q. It says here:

"This, of course, does not condone the method used to obtain the money, and I strongly condemn those who permitted such a system to prevail."

When the Government found out that such a system did prevail, did they not take immediate action to see that as far as possible in the future, such a system did not prevail?

A. They did.

HON. MR. PORTER: Not only that, but we had the most extensive enquiry by Mr. Cotnam and Crown Counsel, by a firm of auditors, and so forth, to find out who might have been guilty, and charges were laid in the cases where we had evidence.

We cannot lay a charge unless we have evidence.

MR. WREN: May I ask Mr. Cotnam one other question in that respect. If he is unable to answer it, that is alright.

During the course of your investigation, and



that of Mr. Dubin -- or perhaps jointly -- did you come across any suggestion or any evidence from anyone that prior to the start of your investigation, the Minister of Highways, or any person of lesser rank in the Department, was having trouble with unrealistic bids in the wording of contracts, that is, bidding which they considered to be unrealistic.

THE WITNESS: I have no knowledge of that.

BY MR. OLIVER:

Q. When and under what circumstances did you become aware that there were Highway irregularities?

A. Mr. Oliver, I became aware there were Highway irregularities when one of my staff went up to Fort William in connection with these truck deals, and it was decided by me at that point, that this practice of the trucks was a peculiar thing, and the Division Engineer indicated that he had no knowledge of it.

That puzzled me, so I sent Mr. Spence, the Assistant Provincial Auditor, up to the Lakehead to further look into the matter. We questioned these people who denied they are involved in the trucks. We would certainly have difficulty in determining the culprits in the trucking conspiracy.

BY MR. OLIVER:

Q. Then it was the Audit Department which really discovered these irregularities?



A. Well, I do not want to take the credit for that.

Q. I know you are a shy, bashful man, but that is so, nevertheless?

A. I would not say that. Mr. Miller gave evidence, and I would not dispute Mr. Miller's testimony at all. I am content to let the Committee decide that.

Q. Was it on instructions from Mr. Miller that you started this investigation?

A. No.

HON. MR. PORTER: No, Mr. Miller could not instruct the Provincial Auditor.

MR. OLIVER: He could suggest that something was wrong. Let us not quibble over little words.

HON. MR. PORTER: It is not quibbling at all.

MR. OLIVER: We want to be realistic about this.

BY MR. OLIVER:

Q. You did not receive any suggestions from any Departmental official that there was some evidence, as they saw it, of irregularities in the Highways Department?

A. I think the thing really started in this fashion. There was a regulation of the Department that employees were not to have their trucks on the job -- that is, trucks of their own.

I think one of the employees erred in this, and certainly transgressed, and it was in relation to that



matter that somebody from the Department went up there.

Q. Your Department?

A. No, the Department of Highways representative went up there.

BY MR. WREN:

Q. You say the activities of these men and their trucks were divorced from the matter of the contractors and engineers; that they were separate activities?

A. Very definitely. There was no connection between the trucking conspiracy, and the Highways irregularities.

Q. Would you suggest that it was through a "tip" by an aggrieved employee -- to use the parlance of the street -- who "squeeled" on somebody?

A. No. To be perfectly truthful, I think what really happened was that we were pressing very hard to get the facts in connection with the truck conspiracy. There was some attempt made, I do believe, by certain of those interested parties, just to rather throw us off the trail, by dragging a red herring across it -- or what they thought would be a "red herring" -- but no one at that point knew what would be the situation.

BY MR. OLIVER:

Q. In your investigation of this minor irregularity you stumbled upon the big scandal?





A. I would not say we "stumbled on it".

Q. How would you word it?

MR. GRUMMETT, Q.C.: It was admitted in your report.

MR. COLLINGS: In the course of his duties.

THE WITNESS: I will say that these things did not come easily, I assure you.

BY MR. OLIVER:

Q. They would not have come out -- you did not ascertain that on the basis of your preliminary examination?

A. I would say we were met with a great deal of difficulty in ascertaining the true facts of the situation, but we persisted, and the end result is what we have now before us.

I instituted proceedings for the falsification of records. This Committee was set up, I think, as a result of that.

Q. It has grown to be a big thing from a small beginning?

A. Well, --

BY MR. WREN:

Q. Is it not a fact that somebody who was doing it, stepped out of line a bit, and was found out? In private business, if they are stealing or falsifying, a spot audit would find it out sooner or later?



A. Yes, that is right. I have in my office a book entitled, "One Thousand and One Embezzlers", which gives the history of one of the --

HON. MR. PORTER: Oh, I thought this was your personal book.

THE WITNESS: Oh, no.

MR. OLIVER: I was going to ask if he was going to add a chapter.

MR. GRUMMETT, Q.C.: You did not see that applied to the Highways Department?

HON. MR. PORTER: No.

BY MR. COLLINGS:

Q. That is part of your duties?

A. Well, he certainly hopes he will find them all, and I think I have had a fair measure of success. But I am not satisfied. I do not want to give this Committee the idea that I am not doing too badly, because that is when I am sunk. If I give this Committee, or anybody else, the impression that I am not doing too badly, my days of usefulness are over. But if I say "I am doing terribly, but I am doing my best", that may be different.

BY MR. OLIVER:

Q. Can you say why the Highways Department did not notice this big matter, before you chanced upon it?

A. Mr. Oliver, I can answer you perhaps better this way. There is in the Highways Department a method



of checking balances --

Q. The cheques did not balance, though?

A. Well, they did not always balance, as we have found out. But, notwithstanding that, there was the element of a system there, which, if carried out by people with complete integrity, I think nothing would have ever gone wrong.

MR. WREN: You thought that from hindsight?

THE WITNESS: Well, hindsight is always better than foresight.

MR. OLIVER: And hindsight is better than no sight at all.

BY MR. WREN:

Q. Do you think there was hindsight?

A. I think the great difficulty in the Department was that it had a tremendous job of work to do, and I think they were prone to consider the building of highways the important thing, and have the other things secondary.

BY MR. OLIVER:

Q. Any means toward a given end?

A. You see, Mr. Oliver, the auditor always wants an ideal set-up, but you have to be practical about these things, and I have to be satisfied at times with something less than I think is ideal.

Q. The set-up, as you found it, was far from ideal?



A. I agree with that, and I strongly condemn it.

BY MR. BECKETT, Q.C.:

Q. You say they were bid on the basis of cost?

A. I said that with regard to those cases where we were in court. That is what we were in court for.

BY MR. OLIVER:

Q. One question from a remark appearing on the bottom of page 15, which says:

"Steps have been taken to ensure that tenders as let will be carried out in every detail in accordance with the terms of the contract".

Is the contract now the same as it was in the days when these things happened? Have the terms of the contracts been changed in any way, or is it the same, old, contract?

THE CHAIRMAN: Mr. Bruce will be here later today at the proper time, to tell us what has been done in connection with reviewing the contracts. They have been very carefully under review.

MR. OLIVER: That may be right, but Mr. Cotnam says in his brief that:

"Steps have now been taken and everything will be alright from now on, and will be carried out in accordance with the terms of the contract".

I want to know if the contracts have been changed to his satisfaction.





BY MR. OLIVER:

Q. Has the contract been changed now to your satisfaction? Is it the contract which will allow these things to be carried out normally, or is it the same, old contract under which these things took place?

A. I can possibly answer your question in this way. I think the Department of Highways has instituted an engineering committee. They are doing things I think no other jurisdiction in Canada is doing today, to ensure that things will be regular and correct.

MR. WREN: That is absolutely nothing new. It is one of the things which has been done before.

BY MR. COLLINGS:

Q. There was nothing wrong with the contract form particularly, before?

A. No, I do not think there was, Mr. Collings. I think we had a very good contract form. But I am subject to correction on that. I think that is for the legal people to find out.

HON. MR. MAPLEDORAM: I do not think we found in our travels anything better.

BY HON. MR. PORTER:

Q. One of the difficulties which resulted in some misunderstanding is that the estimated amounts referred to in the contract are simply estimates.



A. That is right.

Q. And many people get the impression that if a contract is estimated at the sum of one million dollars, anything over and above one million dollars is necessarily wrong, whereas, according to the terms of the contract, the million dollars was simply the estimate of the bases of different items for payment, but in carrying out the contract, it might be found they would have to move more earth or more rock than was estimated in the specifications.

A. That is true.

Q. And that was all provided for in the contract, and a man was entitled to be paid for the amount of earth he actually moved, and the amount of rock he actually moved, and so on, so long as he was bidding according to the terms of the contract, and so long as the material was actually moved?

So, in some cases, the actual cost might have more than the estimate. That has happened? It happens in all sorts of businesses, as I understand it.

An over-run in that sense really has no significance, except that the estimate was not as accurate as perhaps it might have been.

But, on the other hand, from what we have heard here, it is exceedingly difficult, even with very complete pre-engineering -- more complete than we had -- to make



an absolutely accurate estimate, especially in some types of contract, and especially under conditions we get in certain parts of the province.

MR. GRUMMETT, Q.C.: That system of computing contracts left too much discretion to the Division Engineer. That gave him an opportunity to change the figures.

HON. MR. PORTER: It may be he exercised his discretion, which he thought he had. If he had not exercised his discretion, but simply hewed to the line, and certified as to the actual amount of gravel and sand which was actually moved, there would have been no complaint.

MR. GRUMMETT, Q.C.: Or reported it to a senior official in the Department, and let that senior official, together with others, decide whether there should be a change in the contract.

HON. MR. PORTER: Then, in that, there was some argument about the amount owing, being greater than actually appeared in the estimated figure --

THE WITNESS: It certainly does imply dishonesty.

HON. MR. PORTER: There has been some misapprehension about what has happened as a result of that situation, because I think many people are of the opinion where you bid on the contract, and the estimated cost of the work would be one million dollars, that is a contract for one million dollars, and everything over and above that



which is paid is bad.

But that is not the sort of contract this is, and as far as I can discover, from discussions on this matter, I do not think it would be practicable to have that sort of a contract. I think the sort we have is about the only one which would meet the requirements for this sort of work.

MR. GRUMMETT, Q.C.: But the system of handling the contracts gave too much power and authority to the District Engineers, and those who were dishonest were given a greater opportunity to defraud the Government.

HON. MR. PORTER: That is right. There was room for that.

BY MR. COLLINGS:

Q. Then, where the tightening up would come, would be in the field reports, and the progress reports, as the contract progresses?

A. It is the supervising engineer where I think our trouble is at the moment.

Q. There was never any evidence of the falsification or change of unit prices for work done, that is, so much per ton of rock or earth moved?

MR. GRUMMETT, Q.C.: Oh yes, Mr. Collings.

HON. MR. PORTER: Not of the unit prices. The specifications were for quantities.







MR. COLLINGS: Not the unit prices.

HON. MR. PORTER: There was some case where there was certain material called "rock" instead of "gravel", because they would get more money for doing it.

MR. GRUMMETT, Q.C.: That is the identical thing in the longrun about which Mr. Collings was asking. He said there was no change in the unit prices, but there was a change in the quality, which, in the longrun, would bring about a change in the unit prices.

MR. COLLINGS: There are, I suppose, instances which have been tightened up.

MR. OLIVER: My friend, the Attorney-General, has given us a lecture on the fact that there is no particular harm in over-runs. May I ask this question?

BY MR. OLIVER:

Q. Do these new plans envisage tightening up in respect to over-runs, or do you tell us there is no dangerous situation in regard to over-runs, and that we will just perpetuate them?

A. Mr. Oliver, I think with proper pre-engineering, the over-runs would certainly be within reason, and if they are within reason, then I think if something should go wrong, it would be easier to ascertain it.

Q. Then you would say these over-runs were not all recent?



A. I would say they were inadequately pre-engineered, and it indicates that more pre-engineering was needed.

Q. Therefore, the over-runs are not recent?

HON. MR. PORTER: In many of these cases, we must not forget that there were changes in the specifications.

THE WITNESS: There were. There is no doubt that the 1950 contracts, where we switched over from our own standards to the Trans-Canada standards, and did not re-write the contracts or re-negotiate them, made us bound to have large over-runs.

BY THE CHAIRMAN:

Q. If there had been no falsification, you would have got the same net result?

A. That is true. It does not necessarily mean you are out more money.

HON. MR. PORTER: With proper pre-engineering, there would have been higher bids.

BY THE CHAIRMAN:

Q. If you had the proper pre-engineering, and had no falsifications, your quantities would be the same, even though in that case there were over-runs, because of inadequate pre-engineering.

MR. OLIVER: No, it is where the basis was removed.



THE CHAIRMAN: There must have been a case where there were no specifications but over-runs, because of inadequate pre-engineering.

THE WITNESS: With proper pre-engineering, you would have the same quantities and the same dollars --

HON. MR. PORTER: You would have the same result in an honest and dishonest way.

MR. OLIVER: Is there any choice between the two?

HON. MR. PORTER: Of course there is.

THE CHAIRMAN: You have taken another position, Mr. Porter. My remark was dealing with a case where there was no dishonesty. When you come to dishonesty, we are in a realm where nobody can say what the result will be.

MR. JAMES: I think Mr. Cotnam has shown very clearly that the engineering for 1952 and 1953 was much more accurate than in 1951, showing they had more engineers, and were learning something about the north country.

HON. MR. PORTER: His Honour Judge Forsyth said: "On the material before me, I cannot, therefore, come to the conclusion that the Government in fact lost any money whatsoever on the transaction, and probably got good value for the money paid."

That is really the position presented before this Committee. The witnesses who have appeared here say



that these bids were, in some cases, much higher than they would have expected, and that if the bidding had been proper, there would have been no difficulty.

MR. OLIVER: My friend, the Attorney-General, is arguing that everything was alright, even in the face of the fact that so much was wrong.

HON. MR. PORTER: No, I am not arguing that at all. I am trying to put it in proper perspective. Here you are trying to put it in some perspective, while I am trying to put it in the proper perspective.

BY THE CHAIRMAN:

Q. Mr. Cotnam, will you please continue now with your report:

A. Yes, Mr. Chairman, it goes on to say:

(page 2335 follows)





"An investigation such as I have held has its effect upon the employees of the Department and beyond a certain point can be destructive of morals and consequently of good work. From the point of view of all concerned the interests of the Department of Highways are important and anything that might hamper, restrict or delay the Department from carrying out, as expeditiously as possible, the huge programme of work that lies ahead is, I am sure you will agree, undesirable. My recommendation is that every effort now should be turned to the support of the new organization and the new methods and that everything should be done to establish the confidence of all employees of the Department. The Department is faced with an immense construction task in the coming years. That is plainly evidenced from the Public Accounts which give particulars of the great requirements of the Province for highways. As I have said, I believe everything that can be gained has been gained from the investigations which have been held and now is the time to apply these lessons to the future. I make these observations as a servant of the Legislature under whose direction I am. I do not feel that I would be doing my duty if I did not give members the benefit of my opinion.



The decision, however, is not mine and I shall loyally carry out any direction which I am given.

Conclusion

"It has been approximately a year and a half since my investigations into contract irregularities commenced. My staff has worked long and arduously during this time and my task was made easier by their assiduous attention to their duties.

I should like also to pay tribute to my legal advisers, Mr. Charles L. Dubin, Q.C., and his associate Mr. David Humphrey.

I should be remiss indeed were I not to express my appreciation of the professional assistance provided to me by Mr. Duncan Gordon, C.A., and those associated with him in the firm of Clarkson, Gordon and Company. The magnitude of the task which confronted me made it imperative to call in outside professional help. I have been ably served by Mr. Gordon and his expert staff, without which aid the successful culmination of this endeavour could not have been reached.

"In conclusion, gentlemen, may I say that I feel that my inquiries into the past actions in the Department have reached the point where further investigation would appear to be unwarranted and



unproductive and I propose to bring to a close my investigation of this sphere of departmental activities. However, this is not to say that I would not investigate any matters in the past that may come to my attention and appear to warrant surveillance. I most certainly shall take immediate action should such occur, but my judgment is that my attention may now be more profitably devoted to present and future problems of the Department."

THE CHAIRMAN: Thank you, Mr. Cotnam. I am sure all members of the Committee will join me in complimenting you on the excellent work you have done.

MR. OLIVER: Will we have Mr. Cotnam after lunch?

THE CHAIRMAN: If there are any further questions to put to him, we can.

MR. OLIVER: Oh yes, we have.

THE CHAIRMAN: I think it would be a good time to adjourn for luncheon.

MR. OLIVER: On the understanding that Mr. Cotnam will be available after luncheon?

THE CHAIRMAN: Yes. We will adjourn now until two-thirty this afternoon.

- - - - -

---The witness temporarily retired.

---Whereupon at 1:18 o'clock p.m., the further proceedings of this Committee adjourned until this afternoon at 2:30 o'clock.

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A F T E R N O O N       S E S S I O N

Toronto, Ontario,  
Tuesday, January 25th, 1955,  
2:30 o'clock, p.m.

- - -

The further proceedings of this Committee re-convened pursuant to adjournment.

All parties present.

Same appearances as heretofore noted.

- - - -

THE CHAIRMAN: I will ask Mr. Cotnam to resume his place.

H A R V E Y       C O T N A M, F.C.A.,

Ontario Provincial Auditor, a witness previously heard, and now recalled, and who having been already sworn, continues his testimony as follows:

BY THE CHAIRMAN:

Q. Mr. Cotnam, you have finished reading your report?

A. Yes.

THE CHAIRMAN: Are there any questions to be asked of Mr. Cotnam at this time?

I see that Mr. Wren just had in his hand the red book and I think we should pay some tribute at this





point to the author. He did not prepare it necessarily as a counsel for the Committee, but Mr. MacTavish has prepared a very excellent treatise on the whole question of Select Committees of the Legislative Assembly.

I think the Committee would be glad to entertain a motion of congratulations to him.

MR. OLIVER: Even on the basis of not having read the thing, but knowing the author, I cannot conceive of him putting anything in there which would restrict the rights and liberties of anybody.

MR. BECKETT, Q.C.: Of nobody.

MR. OLIVER: Well, after all, that takes in everybody. I have not had time yet to read it.

HON. MR. PORTER: You will undertake to read it?

MR. OLIVER: Yes, but I would rather undertake to read it before the event, than afterwards.

THE CHAIRMAN: I thought we were going to move a motion of congratulation.

MR. HERBERT: Mr. Chairman, I move that Mr. MacTavish be congratulated on his efforts.

MR. COLLINGS: I am glad to second that.

HON. MR. PORTER: I may say, if it is any concern to you, Mr. Oliver, I have not read it yet myself.

MR. OLIVER: That is of no concern to me whatsoever.



HON. MR. PORTER: But I am happy to join in supporting the motion.

THE CHAIRMAN: You have heard the motion. What is your pleasure?

(Motion agreed to)

BY THE CHAIRMAN:

Q. Now, Mr. Cotnam, have you anything further you would like to present to the Committee?

A. I am wondering if I should clear up the point Mr. Oliver raised this morning about the Committee to which I referred.

BY MR. OLIVER:

Q. You might as well say something about it now.

A. In January, 1955, the procedure for dealing with claims was revised, and the following is the procedure, and I think it is pretty well as I have indicated this morning, although I may be technically wrong in some respects.

Q. Who was the author of the revision?

A. The Department.

Q. Were you in on it?

A. I was consulted on it, and it seemed to me to be the logical procedure to follow. It carries our blessing the way it is.

THE CHAIRMAN: Is this the committee you mentioned this morning?



THE WITNESS: Yes.

BY THE CHAIRMAN:

Q. That was started some months ago?

A. It has been now finalized, and is written as of January, 1955.

Q. Just this month?

A. Yes.

Q. You were going to let us know the personnel?

A. May I read what I have said about it?

BY MR. OLIVER:

Q. From what are you reading?

A. The revised procedure for the handling of claims -- Department of Highways.

BY MR. WREN:

Q. Does that include the disputed claims?

A. I think so.

BY MR. OLIVER:

Q. Was it set up for that express purpose?

A. That was the idea of the thing.

Q. It was the momentum of the moment? That was the urgency of the matter?

A. No, I would not necessarily say that, because there are always claims coming into the Department, and this is the procedure to deal with claims generally, as well as specifically.



BY HON. MR. PORTER:

Q. Whenever there is any dispute of any item --

A. If I may read this, Mr. Attorney-General, it may clear up a great deal in the minds of the Committee.

" During the course of Department of Highways contracts many contractors proceed to communicate with the Department seeking allowance of additional sums of money because of various matters arising during the course of the work. Under the contract the Chief Engineer has very wide powers to deal with these matters and in respect of the many items for which he is given a discretion he will make decisions and settle the final payment certificate.

2. If after the final payment has been made contractors communicate with the Department seeking allowance of additional sums, the procedure outlined in this memorandum comes into use. These claims arise because of an infinite variety of circumstances that lead to additional costs on the part of the contractor and the claims have in some cases been the subject of correspondence over a very long period.

3. When the contractor indicates to the Department that he wishes to submit a claim he will be advised to put his claim in writing and send it to the Chief Engineer.





4. The Chief Engineer will take one of the following three steps:-

- (i) The Chief Engineer reviews the claim and if he considers it without merit he will make a report to this effect to the Deputy Minister, or
- (ii) The Chief Engineer considers the claim to have some merit and reports to the Deputy Minister the exact amount to be allowed, or
- (iii) The Chief Engineer considers that the claim warrants further investigation and refers it to the Claims Consultant for review and report. After receiving the advice of the Consultant the Chief Engineer reports his own opinion to the Deputy Minister, attaching to it the Consultant's report.

5. When a claim has been referred to the Claims Consultant under sub-paragraph (iii) above, the Claims Consultant will hear representations from the contractor and Department of Highways' officials and he will make a recommendation to the Chief Engineer. During the hearing with the contractor and the Department of Highways' officials the Claims Consultant may have legal and engineering assistance provided by the Department of Highways but he is not



confined to considering the question before him on purely legal grounds.

6. When as a result of the action of the Chief Engineer under paragraph 4 a recommendation for payment has been made to the Deputy Minister, the Deputy Minister will refer the matter to the Financial Comptroller for advice as to what other matters there are pending with this contractor. After receiving this advice the Deputy Minister will declare a final decision as to the basis of settlement.

7. When the Deputy Minister has declared a final decision he will forward his approval to the Contract Control Engineer who will make out a D.4 which is to be signed in the regular way by the Chief Engineer and the Deputy Minister.

8. The D.4 will then be approved by the Financial Comptroller and a work order issued for payment of the account, a copy of which will go to the division. In the case of outstanding claims which are paid on invoice, the Comptroller will see that the division office receives a copy of the claim in order to process the payment.

9. The cheque will be obtained by the Financial Comptroller and handed to the Deputy Minister for release to the contractor in due course.



10. Prior to the cheque being sent out, the contractor will be advised that his claim has been allowed in a certain amount and also told the reasons for disallowance of any part.

11. He will also be advised that payment will only be made upon presentation to a named official of the Department of a release in the form recommended to the Department and that the contractor may either mail the release in or if he prefers he may present it to the official of the Department in person and obtain his cheque on presentation.

12. The form of release is in the hands of the Deputy Minister, having gone to him under cover of letter dated January 7th, 1955."

There is one more paragraph. It says:

"Claimed by the Department against Contractors:-

13. When it comes to the attention of any person in the Department that they consider there is any basis for a claim against a contractor, such person will report the facts and circumstances to the Financial Comptroller for his information. The Financial Comptroller will not take action in the matter but be kept advised from time to time. The person initiating the matter will also report to the Chief Engineer for such action as he considers



necessary and the Chief Engineer will bring to the attention of the Deputy Minister such claims as he considers important".

That is the procedure, gentlemen.

BY MR. OLIVER:

Q. Did we lose the committee?

A. I visualize, Mr. Oliver, wrongly or rightly, that the Claims Consultant would have a committee sit with him, whomever he may select, in other words, lawyers or engineers.

Q. If he was to have a committee, it should be set out. Is there any provision for a committee for this gentleman, or is he to act solely by himself?

A. It says he can get any person he deems desirable or necessary.

Q. On a committee?

A. Yes.

Q. Where does it say that?

A. It says:

"The Claims Consultant may have legal and engineering assistance provided by the Department of Highways".

Q. But that is not a committee.

A. To my mind, it is. I am sorry. It may not be formally, but it is a committee, nevertheless. If you have a group of people sitting around a table, it is a committee.





Q. They may change from day to day?

A. Oh yes, it may be an ad hoc committee.

BY THE CHAIRMAN:

Q. Mr. Cotnam, I think it is known as the "Claims Committee"?

A. It has always been talked about in that fashion.

BY MR. OLIVER:

Q. It has now degenerated into or been elevated up to a "Claims Consultant"? Is that right?

MR. WREN: He can have different advisors for each claim.

MR. COLLINGS: He probably would need different advisors for each claim.

MR. OLIVER: That may be true, but it is still not a committee.

MR. GRUMMETT, Q.C.: Here is the difference. If you have a committee of three men, those three men would come to some decision. Two of them might decide one way and the other decide another way. That would be a decision of the majority of the committee.

But these Consultants--these supervising persons--~~he~~ brings in, would have no power to render a decision of any kind. They are there merely to advise him, therefore, it is a committee of one. Is that correct?

THE WITNESS: No, I do not think that necessarily



follows. Whatever the Claims Consultant decides, he has to submit in writing, and all of these are before the Chief Engineer, and he considers the whole.

BY MR. GRUMMETT, Q.C.:

Q. It is not a decision by the other men. You have suggested having a Claims Consultant, and it is left in his hands.

A. I am sorry, I do not see it that way. It goes to the Chief Engineer.

Q. No, before it goes to the Chief Engineer, it is solely his own decision. He has no associates, except those to advise him, that is, some independent engineer or lawyer whom he calls in, and who may advise him for his guidance, but the decision is his own, and nobody else's.

A. No, I do not see it that way, Mr. Grummett. These claims come into the Chief Engineer and he decides if they have merit, or if there is anything in them. If not, he so reports to the Deputy, and it may be dismissed.

These must be submitted in writing to the Chief Engineer, and if he thinks they have merit, he refers them to the Claims Consultant. I suppose that is to take the load off the Chief Engineer, because he could not be expected to look into all these things personally.

These are turned over to the Claims Consultant, and he gets technical people --



MR. WREN: But the Claims Consultant is not obliged to call in anybody. He could endorse it himself.

MR. GRUMMETT, Q.C.: That is my point.

BY MR. COLLINGS:

Q. He endorses them back to the Chief Engineer?

A. To me, it is fundamental that the Chief Engineer must --

MR. WREN: It is the Claims Consultant -- whether it goes to the Chief Engineer or the Deputy -- who can take that on his own, if he wants to, and he does not have to call in anybody.

THE CHAIRMAN: I have a memorandum I asked Mr. MacTavish to prepare for me on this point. I will read it, because it comes from the Deputy Minister.

MR. MacTAVISH, Q.C. (Committee Counsel): Yes, that is correct.

THE CHAIRMAN: It says:

"Recently the Department of Highways has established a procedure for dealing with contractors' requests for adjustments in payments due under contracts in cases in which the contractor feels aggrieved and entitled to more compensation than the terms of the contract provide for. This procedure is in the process of development under ministerial direction under the name 'Claims Committee'.



" Claims of this kind are marshalled by Mr. Fred Francis, consultant to the Chief Engineer. He then presents all the relevant material to Dr. C. R. Young, Consulting Engineer and formerly Dean of the School of Practical Science, University of Toronto, who studies the same and makes his recommendation to the Chief Engineer, who in turn passes it on with his views to the Deputy Minister, who makes the decision on the matter in question."

MR. OLIVER: That is somewhat clearer than what my friend, Mr. Cotnam, read to us a few minutes ago.

I understood Mr. Cotnam to say this, that these claims would come to the Chief Engineer, and when he received them on his desk, he had three alternatives. If he saw no value in them or no justification for them, he could turn them down. If he saw they had substantial merit, he could endorse them.

BY MR. OLIVER:

Q. Is that right?

A. That was my understanding.

Q. The only ones which would go to this referee would be the ones in which there was an element of doubt in the mind of the Chief Engineer. I can see, if the Chief Engineer wanted to do the job himself, the referee





will have a very scant time; he will not get many claims, because the Chief Engineer can either approve them or throw them out.

THE CHAIRMAN: That may not be correct. This memorandum indicates he can pass them on.

MR. OLIVER: Which memoranda are we going to believe?

MR. COLLINGS: There may be many claims which should not go to Doctor Young. They may not be of that importance.

MR. BECKETT, Q.C.: I understand if the claims are large, they go on; if not, he deals with them himself.

THE CHAIRMAN: Is the memorandum I read substantially correct, Mr. Clarke?

MR. CLARKE: That is right.

THE CHAIRMAN: Which one is right?

MR. CLARKE: They both mean the same thing. Doctor Young is really assisting me, when I call upon him.

THE CHAIRMAN: You could reject a claim without sending it to him at all?

MR. CLARKE: Yes.

MR. OLIVER: Or approve one?

MR. CLARKE: Yes.

MR. OLIVER: It simply means two recommendations, instead of one. Any knotty problem you get, you would pass on to him?



MR. CLARKE: Up to date, I would pass them on to him.

MR. GRUMMETT, Q.C.: We may have been under a misapprehension. I think you stated they were referred to the committee, and that this committee was Doctor Young and his associates.

Is it possible that Committee consists of the Chief Engineer, Doctor Young, and somebody else?

THE WITNESS: I suppose what happened, Mr. Grummett, was this, although I am more familiar with the details of this than the members of the Committee. I visualize --

BY MR. GRUMMETT, Q.C.:

Q. You take it for granted --

A. That is probably true. The actual operation of this has been that there has been a committee -- not formally named, if you will -- but, nevertheless, there have been several people sitting in on these things, to my knowledge.

BY THE CHAIRMAN:

Q. I think this is a statement of fact of what the Government is doing. If this Committee felt that a recommendation should be made --

MR. WREN: To clear that point up; this Claims Consultant is not senior to the Chief Engineer, in any



position?

THE CHAIRMAN: No, because it goes back to the Chief Engineer, and from him to the Deputy Minister.

BY MR. OLIVER:

Q. Can you tell me how many disputed claims there are, from a dollar value?

A. I cannot.

Q. From whom could we get that?

A. From somebody in the Department. I have been concentrating on these trials until about a week ago.

THE CHAIRMAN: We hope to call Mr. Zoller, and I am sure he can give us some information along that line.

BY MR. GRUMMETT, Q.C.:

Q. Mr. Cotnam, now that the trials are over, and it has been fairly well established as to the amount of money which is involved, what steps has the Department taken to recover that amount of money from the contractors involved?

A. Well, Mr. Grummett, these several contracts where they felt there was over-payment --

Q. It was established prior to the trials in some cases?

A. Not always, Mr. Grummett.

Q. As far as I can remember, on at least two of those the amounts were given.



A. Yes.

Q. And very substantial sums, as well.

A. We have a substantial amount of money on hand.

Q. Is the amount you have on hand sufficient to pay the amounts involved?

For instance, let us consider Tomlinson; I believe Tomlinson is the most involved, somewhere in the neighbourhood of \$365,000.

A. Yes, and I would think we have more than that on hand, due to hold-backs. We probably owe Tomlinson, as a matter of fact.

Q. Would that apply to the other Companies tried and convicted?

A. I think so. We have something over \$300,000 in the case of the Standard Paving.

In regard to Bergman; we have more money there than the amount set out in court.

BY MR. OLIVER:

Q. Have you the details to show that?

A. No.

MR. OLIVER: I think we should certainly have that.

THE CHAIRMAN: As far as these particular items are concerned, the evidence given at the trials is available and it is there in the evidence that those monies





have been recovered.

MR. GRUMMETT, Q.C.: While we are on that subject; there is another angle. I am not sure whether you mentioned it in your evidence, or whether it was mentioned by Mr. Zoller, but I think you were the one who told us about that, and that was to the effect that sixteen companies had received over-payments, and you explained that by saying these companies had finished their contracts, and they had received a certificate to the effect that their contracts were over, and their bond discharged, but the Department continued to make over-payments.

One was the Wolfe Construction Company. I do not remember the name of the other, but there were sixteen companies altogether, and they had been overpaid a sum in excess of two and one-half million dollars.

Wolfe, I believe, ran up to \$993,000. That was a direct over-payment after their bonds were discharged, and after they finished their contracts.

BY MR. GRUMMETT, Q.C.:

Q. What attempt has been made to recover that amount of money from those sixteen contractors?

A. I did not give those figures. I think Mr.Zoller gave them.

Q. You referred to them.

A. No, I think not. At no time in this investigation,did I mention dollars.



Q. You referred to the companies which had received over-payments?

A. Yes.

Q. And Mr. Zoller gave his figures?

A. Yes.

MR. COLLINGS: "Over-payments" or "over-runs"?

MR. GRUMMETT, Q.C.: No, over-runs. I do not want the words "over-runs" and "over-payments" confused, because there was considerable confusion the last time.

MR. COLLINGS: I do not want them confused, either.

MR. GRUMMETT, Q.C.: We were confused at the last hearing, by calling them "over-runs". They were not "over-runs"; they were "over-payments".

BY MR. GRUMMETT, Q.C.:

Q. What success has the Government had in recovering that amount of money?

A. I believe the Wolfe Construction Company is out of business.

Q. So nearly half the total sum is gone?

A. I do not know what counterclaims Wolfe might have, which the Department may consider were proper.

Q. The Wolfe Construction Company had finished its contract; they probably would have no further touch with the Government. They probably had been paid in full.



A. I do not think that follows, Mr. Grummett.

BY MR. OLIVER:

Q. Do you know if Mr. Wolfe, Junior, has received a contract within the last week?

A. I do not know about "last week", but I think he received a contract some time ago.

Q. Was the Company re-organized?

A. No, he received the contract personally.

Q. With these over-payments still outstanding?

. BY MR. WREN:

Q. What equipment was used?

A. I am sorry, but I do not know.

Q. That is one point I would like you to clear up, Mr. Cotnam, if you will.

I am only a junior member of the Legislature, and I am not too familiar with the functions of your office. but it seems to me in an amount of this kind, if you have not been consulted, you should have been, by any Department which is nearly one million dollars short due to over-payments, from its funds.

Would it not be a proper thing for them either to notify you or if it came to your attention without your notification, to institute an investigation into the matter and make a report to the Legislature, of whom you say you are the servant.



This is nearly one million dollars, and it is gone. You say you believe the Company is bankrupt, and we are out nearly one million dollars, but you cannot tell us what we might be able to recover, or if there is any hope of recovering anything at all?

In the meantime, the son gets a contract, we are told, within a short while ago, and we are told he is using the equipment of the bankrupt Company to fulfill his contract.

Do you not think your office might look into that?

A. I think you are setting me a pretty tough programme.

Q. To whom else are we to look?

BY MR. GRUMMETT, Q.C.:

Q. If your office did not look into these things, do you not think it should be up to the Department to look into them?

A. At the moment, I think the Department is doing a good job under difficult circumstances.

These trials have been proceeding throughout the province, and their people are trying to assist in the investigations.

Q. Does it look as if it is good judgment to give a contract to one member of a firm which received an over-payment of almost one million dollars -- a junior member;





one of the sons -- who was a member of the firm as well -- to give a contract to him, when his firm owes nearly one million dollars to the Government?

A. I think you have a technical difficulty there. The contract was not let to the Wolfe Construction Company.

Q. The last one was not, I grant you; it was let to the son, who was a member of the Company?

A. Yes.

BY MR. WREN:

Q. We had the same situation in the Atikokan District. One company could not fulfill its obligations, and another person was permitted to carry on.

What about our tax money?

A. I think if you people chose to complain, that is your privilege.

Q. Please do not misunderstand me. I am appealing as a member of the Legislature to the Provincial Auditor to advise me what position your office should take in these things.

MR. COLLINGS: I do not think he has anything to do with that.

THE WITNESS: I will tell you this, Mr. Wren; the Provincial Auditor is trying to do these things. You do these things, not out of a textbook, but by living.

I am trying to conduct my work with tact, with



courage, with firmness, with fairness, with good judgment, with good temper, with integrity, industry and reliability.

MR. OLIVER: Well, one could not ask for more.

THE WITNESS: I can do no more, gentlemen. That is what I am trying to do. Little though it may be, I am trying to do that.

THE CHAIRMAN: I think you have done a very good job.

BY MR. WREN:

Q. Nobody is questioning your integrity in any way, shape or form. But if the Department of Highways is apparently ignoring the financial position of this Company, and their responsibility to the tax payers, to whom are we to look to see that these things are straightened out?

A. I have been busy with these trials. I put a lot of other things out of my mind, because I was anxious we should settle this thing once and for all, about these trials.

If the falsification of engineering records was to continue in this province, I did not want to be in on it at all. I was anxious we should determine once and for all, and let the courts decide, whether it was proper practice. I believed it not to be a proper practice, but I was concentrating on that, to the exclusion of almost



everything else. Most people would expect that was my duty, since these investigations started. Maybe I have been negligent in some other matters, but, believe me, it has not been done wilfully.

Q. That is not the idea at all. Would you suggest your own Department is under-staffed, and owing to that, you were unable --

THE CHAIRMAN: No, I do not think --

MR. WREN: This is a matter of one million dollars.

MR. COLLINGS: The wording of the contracts is not under the Auditor's Department.

MR. OLIVER: Surely that is a legitimate question to ask, if his office is under-staffed.

MR. WREN: This (indicating) reads:

"The Auditor shall satisfy himself that every account or requisition for payment is in the terms and conditions of the grant to which the accounts relate."

Again, I am not a lawyer, but I would take that to mean that Mr. Cotnam, or somebody under his jurisdiction, should take care of these matters.

We had one disturbing situation at one time, while companies were under investigation, they were awarded contracts. Now we have another company which owes a great deal more money than the investigations of the others



showed, and it is reported to us -- it may be wrong -- that the equipment of the defunct Company was being used for the fulfillment of this contract.

Why was this equipment not taken over by the province? It must have been of some value.

THE WITNESS: As against that, Mr. Wren, let me put this to you. We have a tender system by which the lowest tenderer gets the job. We are not before the courts

THE CHAIRMAN: You are putting questions, Mr. Wren which have nothing to do with what is before us now.

MR. WREN: Oh, yes, it has.

MR. GRUMMETT, Q.C.: Oh yes, Mr. Chairman.

THE CHAIRMAN: There is no evidence except the suggestion that this equipment might be used by the son of a former officer of this Company.

Supposing it was; we can also suppose it is out on rental, or the trustee is getting the rental, and we can suppose that the trustee was using surplus monies, to pay the creditors.

BY MR. GRUMMETT, Q.C.:

Q. There has been no formal bankruptcy?

THE CHAIRMAN: I thought you said they were in bankruptcy.

MR. GRUMMETT, Q.C.: That was merely an expression that the Company has ceased as a company to operate. They





are in a position to tender on further contracts?

THE CHAIRMAN: If they are not in bankruptcy --

MR. COLLINGS: So the equipment is the property of a solvent Company?

MR. GRUMMETT, Q.C.: Definitely.

THE CHAIRMAN: I think we should get the correct answer from Mr. Zoller, rather than Mr. Cotnam, on that, because the Department Comptroller knows more about that.

MR. COLLINGS: Maybe Mr. Zoller has not been asked to certify any payments to young Mr. Wolfe, as yet.

MR. WREN: I think we are missing an important point. What responsibility does the Auditor have in these matters, and what is brought to his attention by the various Departments? Is the Department of Highways at fault by not bringing it to his attention?

THE CHAIRMAN: If you want a comment, Mr. Zoller is present, and he might answer you in respect of payments of contracts in the Department of Highways.

THE WITNESS: I want to answer it in this fashion. If Mr. Wren will take a look at Section 10 of The Audit Act, he will find that it says:

"Nothing in this Act shall be construed to affect the responsibility of any minister, deputy minister, departmental officer or other person charged with the administration of public moneys, and the



responsibility for the conduct of the financial business of each department shall rest with the head of the department, and before accounts are recommended to the Treasurer for payment they shall be checked and examined in detail and vouched as correct in every respect and allowed and passed by the proper departmental officers."

I think there is some responsibility.

MR. WREN: Oh, no doubt there is responsibility in some higher --

THE WITNESS: I am trying to discharge my duties in the manner I outlined to you a few moments ago, with these things in mind.

That is constantly in my mind, and is my sole aim in life.

BY MR. WREN:

Q. Is it not as important to protect \$990,000, as it is some of the others?

A. It is just as important to check \$9.00, as it is to check \$900,000.

BY MR. OLIVER:

Q. I am sure that you do not say your duties are a mere formality.

A. No, definitely not.

Q. You have very heavy responsibilities, and I am



sure you appreciate them.

A. Yes.

Q. Realizing that, and appreciating it, does it give you any concern that this Wolfe Company have had an over-payment of almost one million dollars, and now a former member of that Company has branched out into the contracting business before satisfaction has been given to the Department for the claims against the old Company?

Would you not have some apprehension in your mind that what happened in connection with the old Company might happen with the new aggregation, or would it not?

A. I think that is rather a hypothetical question, Mr. Oliver. I really do not know that the two things are completely related there.

Q. In other words, on the surface, you would not see anything wrong with this former member of the Company getting a contract at the present time?

MR. GRUMMETT, Q.C.: That former member surely has an obligation to repay the amount, has he not?

MR. COLLINGS: Maybe he has.

THE WITNESS: If you do not let the man do any business, how can he ever repay you?

MR. GRUMMETT, Q.C.: I do not think I would let him be in my business.

HON. MR. PORTER: Who knows if this particular



Mr. Wolfe, the son of another Mr. Wolfe, was a party to anything at all?

MR. GRUMMETT, Q.C.: He is a member of the previous firm.

THE WITNESS: This contract, as I understand it, was let to Wolfe personally. He may be connected with the Wolfe Construction Company or he may not.

MR. WREN: Then he could not operate as Wolfe Limited.

BY HON. MR. MAPLEDORAM:

Q. Is it not important that the Bonding Company should investigate that?

A. I would say so.

BY MR. OLIVER:

Q. If the operations of the Company have lost us a million dollars, how do you know that another Company will repay that one million dollars?

THE CHAIRMAN: It was as a result of tender, and a bond was secured, and it went through the usual procedure.

MR. WREN: And pre-qualifications?

THE CHAIRMAN: I do not know about that.

MR. OLIVER: Is that not a policy in the Department. We will come back to that.

THE CHAIRMAN: Yes, we will come back to it. If there is anything in Mr. Wren's suggestion that he is a





debtor to the Crown, that might be the means of recovering some money to the Crown.

MR. WREN: That may be, but we want the details.

THE WITNESS: I do not know that that is so.

BY MR. WREN:

Q. One more question along the line of the Audit Act, and the Department's responsibility.

Has the Department of Highways advised you, as Provincial Auditor, of the number who were overpaid on the Atikokan Highway, their names, and how much they were overpaid? Has that report been issued?

A. I did not investigate that particular matter, but I still may.

BY MR. OLIVER:

Q. What conclusion have you arrived at today? Is there some finality to your investigation?

A. I would hope there would be some settlement. We are holding sums of money for all these contractors.

Q. What was the amount overpaid by the Department on the Atikokan Road?

A. That I cannot tell you, in dollars and cents.

BY MR. WREN:

Q. The engineers have been over the project four times in recent months, and you have not been given any final report on it?

A. No, not yet.



BY MR. OLIVER:

Q. Are you saying the figures are not available?

A. I would not say that, but I have been completely absorbed in the trials, and they were only completed yesterday.

Q. Would it be asking too much of you to determine whether the figures are available or not?

A. I would be glad to make some enquiries.

THE CHAIRMAN: Are there any other questions?

MR. OLIVER: Oh yes; we have a number of questions

BY MR. WREN:

Q. Getting back, Mr. Cotnam, to your report this morning, which was very well written and very well presented, I might say, and it is the kind of thing we appreciate getting.

On page 6, there is one sentence there, where you are discussing "over-runs" and you say:

"In this, blame must also be attached to the contractors in that they may have bid too low on original unit prices because of their desire to get the contract".

I asked you one question about that; that have you ever heard of anybody in the Department feeling that these jobs had been bid too low, and you said you had not, in the course of your investigations.



Then it is more conceivable that a group of contractors -- and you must have had some justification for making this statement -- thought these amounts were bid at prices at which they might reasonably expect to lose money. None of them wanted to do any business and lose money. Would you think they might have had some place from which they were going to get out of it some way?

A. Mr. Wren, you bring up the subject that would probably take me hours to discuss, pro and con.

Q. We are prepared to listen.

A. I am prepared to do that, too.

BY MR. OLIVER:

Q. I think that is at the root of the problem.

A. I think that is right. I think that is one of the things this Committee can perhaps come to some conclusion on. I do not think I could improve on the answers given by some of the engineers.

BY MR. WREN:

Q. Up in the north country -- and I have lived there all my life, as has my friend from Fort William (hon. Mr. Mapledoram), and conditions were not quite as restricted as they were following the war. We have been building roads in the north country for a long time, and I think any intelligent contractor would have a fair idea of whether he is going to break even or make money on



a job, and when they bid -- or so it seemed to the public -- as mentioned in the Woods Gordon report, and their bids were excessively low, they must have had some expectation somewhere that they were not going to differ far from the base figure.

Of course, the people I have sat here and listened to, who have presented evidence before this Committee -- everybody seems to have no idea as to what the prices are. The former Deputy Minister feels the prices bid were unrealistic, while several other persons, if I recall -- one was the C.P.R. engineer -- had different ideas.

MR. COLLINGS: He was very positive on that.

THE WITNESS: The Road Builders, when presenting their brief, said the bids were ridiculously low, when they did not qualify. So, considering the welter of all this evidence, I think you are asking a lot of me to say what was what, because, after all, there was a department composed of some technical people who were in the road building business, and the road building business is not my business, although I happened to have worked on a highway as a boy in my college days, but I am not a road builder, and I think to ask me whether prices are realistic or low -- my own feeling is, the prices were low.

BY MR. WREN:

Q. Mr. Cotnam, forgive me for interrupting you, but





I am asking you if as a result of your persistence and intensive investigation, what is your opinion from the people whom you have interviewed? You are sufficiently intelligent to draw conclusions from talking to responsible people. What is your opinion of these bids made on these jobs in the north country?

A. Were they bid low in some other fashion, or were they bid with some expectation of some other situation?

Q. Were the bids realistic?

A. You cannot say that unless you determine whether the prices were right or not.

Q. Let us face the question in another way. From talking to Government engineers and private consulting engineers, and discussing it with the Woods Gordon Company, and the people under your jurisdiction, that is, from auditors under your jurisdiction, and from auditors of other companies, say, over a period of six years, are you prepared to say that the bids were reasonable? I am not speaking of costs, but bids.

A. No. Let me answer it in this way. I have done considerable reading in my time. I was reading an article last week about these loss leaders in the stores, as to whether people could lose money on them. If you get enough volume, prices may go down, and they would not do



too badly, if they did not sell below cost.

But what constitutes "cost" is extremely difficult to determine.

Q. Will you answer me "Yes" or "No"? Do you feel, as a result of investigations, that the bids these contractors made on these jobs were realistic on a unit-price basis?

A. You have the testimony given in evidence before the courts. Do not take my word for it. Take the court cases.

Q. What is your opinion, from listening to the evidence?

A. I must confess that you have conflicting opinions even in those cases. The contractors bring forward engineers. I heard a prominent consulting engineer, in the Standard Paving case. He got into the witness box and said he believed the road was a good road, in fact, the best stretch was between Fort William and Kenora.

Q. We are talking about the bids made at the time.

A. Let me develop this thing.

MR. WREN: May the witness be directed to answer, Mr. Chairman?

MR. COLLINGS: Let the witness answer in the manner he wishes to answer.

MR. OLIVER: Oh, you just run your Liquor Board.



BY MR. WREN:

Q. The Provincial Auditor is the one I am questioning, and I am asking him for his opinion. What opinion did you form after your investigation? You had the opportunity, which we did not have, to investigate, and also to hear the evidence.

Do you think the bids were realistic on the unit-price basis, from the evidence you have heard and gathered?

A. You have to try to rationalize --

THE CHAIRMAN: I think it is fair that Mr. Cotnam be allowed to answer. You have heard the evidence of Mr. Miller one way, and several experts the other way, and I do not think it is fair to ask the Auditor --

MR. WREN: I have not had the opportunity of reading the evidence. Mr. Cotnam, in his capacity as Provincial Auditor, had the opportunity of talking this over with perhaps hundreds of people -- I do not know how many.

MR. BECKETT, Q.C.: I do not think Mr. Cotnam, as an auditor, is in a position to answer that question. It is an engineering question.

MR. WREN: It is a costing question.

HON. MR. PORTER: Mr. Cotnam is not in a position to decide what the cost position of any company is.

MR. WREN: As an auditor, I think he should be.



HON. MR. PORTER: Not at all. It is the way of carrying out jobs, by big corporations. Some people can do it better than others.

BY MR. WREN:

Q. You have a staff under your supervision, auditing these companies -- or several of them?

A. We were in there under a search warrant, and we generally do not expect to do an audit, but we do examine into them.

Q. What conclusion as to costs did you reach there?

A. Let me go back to the Standard Paving trial. There was evidence produced by a consulting engineer that the road was worth all the money that the Standard Paving Company received for it.

As against that, they claimed they made no money, but they talked about something in their costs, being included in that for interest factor, I think it was 3 percent.

As an auditor or accountant, that is something I cannot just quite follow. If these costs included depreciation on equipment, it is not feasible to also charge interest on your investment, and I would be surprised if the Company did any such thing in their own records, but to say that is "cost" -- that is a little difficult for me to follow.





Q. You thought they were trying to justify the cost by adding --

A. They say their costs were reduced --

BY MR. WREN:

Q. In the light of the Company -- that is, an experienced Company, that bid \$1.00 as a unit price for a certain job, and in the end that Company received \$1.50 would that not indicate to you that their bid in the first place was unrealistic?

A. Mr. Wren, you just get back again to the same thing. Each contractor has his own way of doing business which he thinks is efficient. He has his own equipment and what may be the cost to one contractor, may not be the cost to another. That is the great difficulty. If I knew the answers you are asking me to know --

Q. That is the very thing I want answered. Was it their method of doing business to voluntarily bid, knowing that by re-classification or some other method, they would not suffer financially from it?

MR. GRUMMETT, Q.C.: And so would get the contract.

BY MR. WREN:

Q. I am not speaking about final costs. I am speaking of their bidding.

A. Let me answer it this way. If the contractor



bid low in the expectation that he was going to get some assistance, and he did get some assistance in an engineering way, from the engineer, which ultimately gave him some advantage, then I think the tendency would be the next time to bid still lower again, and perhaps hope for more assistance.

Q. Did you see any indication of that?

A. It is purely hypothetical. No, I did not see anything which would indicate that was the system.

BY MR. OLIVER:

Q. Do you think they would have bid so low if they had not had some assurance they were going to be compensated in some way? 90 cents for rock, for instance?

A. The 90 cents for rock seemed to me to be unbalanced by the earth prices. These are the things which are difficult to get over. Perhaps we should not permit unbalanced bids, if we recognize them as such.

For myself, I would be inclined to throw out unbalanced bids.

If you throw out that bid for 90 cents for rock -- and everybody agrees that rock cannot be moved for 90 cents -- I think a contractor should not be awarded for 90 cents for rock.

I think every unit price should be within reason, and I do not think there is anybody in this room believes



we can move too much rock at 90 cents.

Q. You heard the evidence of the Canadian Pacific man?

A. Yes, and against that we have heard people say they will move all the rock in Canada for \$1.70.

The C.P.R. Engineer is not a highway engineer, and the trouble in the highway business is this; a municipality, for instance, wants to develop a highway in the municipality itself, and they engage people in the industry who are building highways. We are not in competition with everybody else. It is not like a business outfit where there are sixty or seventy companies making the same article, and you can get competitive figures.

BY MR. WREN:

Q. The Tomlinson Company, on the Little Pic -- the Company was getting 90 cents for moving rock on one side of the river, and on the other side of the river, the other company was getting \$1.50.

HON. MR. PORTER: I suppose they were different bids.

THE WITNESS: Yes, they were unbalanced bids.

HON. MR. MAPLEDORAM: Has it not been the policy to get the roads built as cheaply as possible, for the last twenty-five years?

HON. MR. PORTER: It also follows that in some



contracts, there were changes made, which upset the whole picture. I do not know whether anybody can say that a bid was too low, in view of the fact that the work was carried out on a different basis.

MR. WREN: How can that be now? If, for instance, there is a contract for 90 cents, and it went up to \$1.50?

HON. MR. PORTER: In the case where specifications were changed. Who is to know now whether that was a low bid or not? How can we decide that now?

As a matter of fact, I cannot see how anybody but a contractor can tell what is a proper bid.

BY MR. WREN:

Q. Is it fair to say it was never brought to your attention at any time prior to the discoveries, that the bids were unrealistic?

It was never suggested to you nor brought to your attention? I mean, prior to the initiation of the investigations?

A. The matter was discussed with the legal department over the years many times, as to low bids, and the question that the low tenderer always got the work, and the Department was not in a position to say to a contractor that he could not have a job, because he bid too low. Who is to say the contractor cannot do the work?





BY MR. OLIVER:

Q. But it still remains, Mr. Cotnam, that neither you nor I would have taken this contract at this ridiculous low unit price, if we had not had some compensation for what we knew would be losses on our part, if we carried out the project strictly according to the bid.

MR. BECKETT, Q.C.: There is no evidence they bid low for that purpose.

THE CHAIRMAN: They might have done it in the hope of getting the job, but there is no evidence of that being assured.

MR. GRUMMETT, Q.C.: The practice would indicate that.

MR. BECKETT, Q.C.: That is an assumption.

THE CHAIRMAN: I think we have reached the point as to what can be done to cure something of that sort on our jobs. I think it has been established that it is a wrong practice. I do not think we are too keen to re-hash what has already occurred. I think we are all agreed that these practices which have been referred to at the trials, have caused trouble, and they are bad practices. Is there any member of the Committee who disagrees with that?

MR. WREN: There is the matter of the Atikokan Highway yet to be decided on the basis of past practices.



The road is built and finished.

MR. BECKETT, Q.C.: Are there any particular claims which have been sent in?

MR. WREN: Several.

BY HON. MR. MAPLEDORAM:

Q. They are not paid for yet?

A. That is right.

THE CHAIRMAN: Are there any other questions?

BY MR. OLIVER:

Q. I would like to ask a question in regard to the charges against these contracting firms.

You used the facilities of the Provincial Police to go into their offices and make the examinations?

A. Well, that is the formal approach, Mr. Oliver.

Q. That is the way it was done?

A. Well, yes and no. They served the warrants, but the people who did the work were people under my direction, that is, accountants. In other words, Clarkson, Gordon did the examinations for me, and they searched out this material.

Q. But did you not possess the same powers under the Audit Act?

A. No, not under the Criminal Code. To go in under a search warrant is a different proposition.



Q. You mean you would not get the same co-operation?  
Is that the angle?

A. No, I would not have much success, I think.

Q. Why? Tell me why.

A. What we were looking for was a confirmation of our belief that we would find things there which would enable us to lay a criminal charge.

Q. And you would not have been able to get that by an ordinary audit?

A. No, I do not think you would.

HON. MR. PORTER: Auditors would want to see the actual books of the company, whereas what they were seeking were contracts, or any other documents which might be evidence of some criminal intent. That is a very different thing.

MR. OLIVER: But would that not relate to an audit?

HON. MR. PORTER: No.

MR. OLIVER: Why not?

THE WITNESS: No, Mr. Oliver, that is not so. I assure you I have audited the books of many corporations, and that kind of evidence is not the kind --

BY MR. OLIVER:

Q. How can you make a thorough audit without that kind of evidence?



A. Mr. Oliver, if you went in to do an audit of a corporation, and started looking for the kind of things you look for under search warrants, they would very soon say, "My dear boy, what are you looking for? If you want to audit the books, go ahead and audit".

MR. OLIVER: So you cannot make a complete audit?

HON. MR. PORTER: You cannot make a complete search through their letters and documents; only those which pertain to the actual entries in the books.

BY MR. OLIVER:

Q. I would like the witness to answer this question. You cannot make a complete audit without such power?

A. You can make a complete audit. But what do you mean by "complete"?

You see, when you go in under a search warrant, you will seize everything and these people cannot touch anything. When you go in to do an audit, the people can clear the place out, and practically strip it.

Q. That is what you were afraid of?

A. You just do not want that to happen.

HON. MR. PORTER: They may suspect further illegal activities going on.

BY MR. COLLINGS:

Q. They were going on before you went in to make the audit?





A. You have to have reasonable grounds for believing, and that does not come easily.

Q. Do you think the auditor should be strengthened, to give him more power?

A. To go into a contractor's office?

Q. Yes.

A. I do not know whether you can always -- I think that is a difficult question to answer, because if you are trying to so arrange your Audit Act that you are going into contractors' offices, with the purpose in mind that he is doing something fraudulent, I do not think we should be doing business with those kind of contractors.

MR. COLLINGS: If you are making a private audit --

MR. OLIVER: A private audit?

MR. COLLINGS: Or even holding an audit, would that give you the right to go into the President's office and ransack the desk and see his private files?

BY MR. OLIVER:

Q. What if the President had papers pertinent to your audit?

A. If you see something you want to investigate further, you can ask him, and if he says, "I am sorry; it is not here", what could you do?

THE CHAIRMAN: If you were to pick up these papers, you are, in effect, saying the Government has more power than citizens have. I think you should be



very careful.

MR. OLIVER: I am only concerned that my friend (Mr. Cotnam) has a sufficient staff to do a sufficient job of auditing.

THE CHAIRMAN: He can answer that.

THE WITNESS: Yes.

BY MR. OLIVER:

Q. Do you think you have sufficient power?

A. Yes, I think so.

Q. I am not a lawyer, and I will take some correction from those who are, but there is a limit to what I will take, but I will take some. But I understand the charges which were laid originally were called "conspiracy to defraud"?

A. Yes.

Q. When you preferred those charges, you had to have evidence you thought would substantiate them to the end that they would hold up in court, and you could get a conviction?

A. You always have to have what you think is evidence to support the charge you lay, but it does not follow that is the charge with which you will end up.

Q. You were very sure in these instances that the evidence was sufficient?

A. We laid charges, Mr. Oliver.

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Q. Which would indicate you thought the evidence was sufficient?

A. Yes, I would say so -- to support those charges.

Q. Then what transpired in the interval to make you change your mind, and allow them to plead guilty to what I always thought were lesser charges?

A. There is legal terminology there. I think they call them the "substantive charges", and you would change the charge to a substantive charge, if that is what you really believed had happened.

Q. The conspiracy to defraud is a much more serious charge?

HON. MR. PORTER: No, if you can prove there was a fraud committed, or that money was obtained by fraud, that would be a substantive charge, and the conspiracy to commit the offence becomes the lesser charge.

THE WITNESS: That is right; that is my understanding.

BY MR. OLIVER:

Q. Then why did you not proceed on the fraud charge rather than the conspiracy to defraud?

A. We proceeded on the fraud charge.

Q. But not from the public.

A. That is the charge upon which they were convicted.

MR. BECKETT, Q.C.: I think Mr. Oliver should read the evidence --



THE CHAIRMAN: Yes, it is quite clear there was no lesser charge involved in the matter. I do not think this Committee should attempt to sit in judgment on the courts.

MR. OLIVER: I am not sitting in judgment on the courts at all.

MR. BECKETT, Q.C.: There was a special prosecutor. Mr. Cotnam was not the prosecutor in the case.

THE CHAIRMAN: I think before we finish, we will have read a great deal of this evidence. I read it through. I do not know whether the members have, but I think they should during the course of our deliberations. It is, in effect, in my opinion, evidence which has been given here.

BY MR. WREN:

Q. Have you found many cases where you felt the Companies or individuals were highly suspect, but you could not quite get sufficient evidence to justify a conviction?

A. Mr. Wren, I would answer your question in this way; we got search warrants for six contractors, and then we subsequently got search warrants for three more contractors, and we ended up with three charges against certain companies, so out of the nine, we ended up with three.

We had what we considered reasonable ground for





belief --

BY MR. WREN:

Q. You had to have, in order to get the search warrant?

A. Yes, but if it was substantiated in these cases, we would have had nine, instead of three. But we did not have that. So we only proceeded on the ones we felt we had grounds to go ahead with.

It was done with great exactitude, and through searching, and a lot of work. These things do not come easily. I think it is probably breaking new ground in Ontario.

MR. OLIVER: I think you are right.

THE WITNESS: Perhaps we have done it imperfectly but nevertheless, I think and hope that good has come out of it.

BY MR. WREN:

Q. Of these remaining six, would you find evidence that some of the papers you thought you would find, had disappeared?

A. I think it is a reasonable statement to say we had some ground for believing that. Of course, we did not have proof. You can think what you like, but I do not think that "thinking" is quite good enough, in that connection.



MR. JANES: We would all be in jail if we were put in for thinking.

HON. MR. PORTER: Just speak for yourself, Mr. Janes.

MR. GRUMMETT, Q.C.: You must have had thoughts.

THE CHAIRMAN: Are there any further questions?

BY MR. GRUMMETT, Q.C.:

Q. There is one question I would like to ask, possibly not in the usual run, but we can discuss it today.

Would it help your Department when dealing with a Department like the Department of Highways to have one of your own auditors checking in each division area, that is, an auditor assigned to each Division Engineer, and have that man check any contracts entered into with the Department of Highways, **checking**, and reporting direct to you.

A. Mr. Grummett, I would answer your question in this way: the building of highways is a matter of engineering, and the Division Engineer certifies to those quantities. He is supposed to, but it was shown clearly he did not, in all cases. In those cases, they were not men of integrity.

Q. That is right, but could you not have prevented the dishonesty by having one of your men in there to check?



Would it not be cheaper to pay, say, sixteen auditors from your Department at less an amount of money to prevent dishonesty on the part of some engineers?

A. Let me put it this way: you are asking the auditors to do the job for which they are not trained. They are not engineers, and I would not want to hold myself up as an engineer --

HON. MR. PORTER: Do we not get down to this? We appoint people as engineers, with certain responsibilities out in the field. If we cannot trust those men who are engineers and men of standing, and qualifications, and we have to put some man out there to watch them, how can we trust him?

You have to trust people.

MR. GRUMMETT, Q.C.: But it cost you money this last while.

HON. MR. PORTER: It happens in all walks of life. Sometimes, people "let you down". At other times they do not. All you can do is to make the necessary changes to strengthen the organization. Every once in a while you run into a position of that kind in business.

It has not been suggested we put a lawyer in every one of these offices. After all, that might be better.

MR. JANES: The lawyers would be starving to



death, if they put the auditors in.

THE CHAIRMAN: Are there any other questions?

BY MR. OLIVER:

Q. I would like to ask this question. Whose signature is on the cheques which go out to the companies for work performed? Do you know, offhand?

A. The signature of the Deputy Treasurer, the Treasurer, and my own.

Q. Is there an actual signature on the cheques at all?

A. We have the facsimilie signatures.

Q. You do not sign them yourself, nor the Deputy Provincial Treasurer does not sign them himself?

A. No.

Q. So there is no actual signature at all?

A. No.

Q. Who controls these cheques? He is the one I would like to get hold of.

A. You cannot get my signature on that.

BY THE CHAIRMAN:

Q. Do you actually put it on, yourself?

A. No, I do not put it on.

BY MR. OLIVER:

Q. There is not actually a natural signature on the cheques which go out at all?





A. There are three signatures --

Q. I know that, but you do not sit down and write them yourself?

A. No, I do not write them by hand.

Q. They are made up in a bunch, and somebody fills them in, and out they go?

A. It is done on machines.

HON. MR. PORTER: There should be no difficulty arising from that procedure, because the cheques which go out are all authorized.

THE WITNESS: They are all accounted for.

BY HON. MR. PORTER:

Q. It is not as if some cheques had gone out improperly?

A. No, nothing of that kind. If I had to sign all the cheques, I could not have made these investigations.

BY MR. OLIVER:

Q. What value, after all, is a signature, if he does not put it on the cheque actually himself?

A. I would answer it this way. If you look at business generally, you will find that is the accepted practice for signing cheques.

I think you will find more facsimilie signatures on cheques than natural ones. The cheques are very numerous, but I think you just cannot go in and order a



cheque out of the Treasury Department.

Q. You cannot?

A. No.

HON. MR. PORTER: I can quite understand why the Leader of the Opposition is trying to find out.

MR. GRUMMETT, Q.C.: You might be giving some more ideas to the members of the Government, too.

MR. OLIVER: I was interested in this judgment by Judge Forsyth.

MR. JANES: Are you going to quote him now?

MR. OLIVER: Do you not recognize him as an authority?

MR. JANES: Not too much. I am surprised to learn that you do.

BY MR. OLIVER:

Q. In that judgment, it is said:

"On the material before me, I cannot therefore come to the conclusion that the Government in fact lost any money whatsoever on the transactions".

We might be in agreement on that, Mr. Janes.

It goes on to say:

"This, of course, does not condone the method used to obtain the money, and I strongly condemn those who permitted such a system to prevail".

Who permitted the "system to prevail"?

A. The contractors, I would say, primarily.



Q. They were the sulprits.

A. I would say so. They were the ones who were found guilty.

BY MR. WREN:

Q. They set up the Government system?

A. No; I would not say that at all.

BY HON. MR. PORTER:

Q. The employees were found builty of falsifications, which had to be made by certain employees of the Government?

A. That is right.

Q. And one of the questions in these trials, was the contractor a party to the falsification, and if it had not been for the falsifications, but they were over-paid, there would be no criminal charge?

A. That is right.

Q. It was entirely a question of who had knowledge and was a party to these falsifications?

A. That is right.

Q. Certain members of the staff made the falsifications, and then they were charged?

A. Yes.

Q. And the Company pleaded guilty to being a party to that?

A. Yes.

Q. And as to the individuals in these cases, people



against whom the evidence was extremely slight, and might not have had enough evidence to convict at all, and the question was, was each and every individual himself actually the one in the Company who did it, or authorized that to be done?

MR. WREN: Yes, but in the final instance, in this system, when a final payment was made, somebody came up to your office, or the Provincial Treasurer's office, and three signatures would go on these cheques? Was there at any time any checks made to ensure that there was on deposit in the Departmental office, plans and profiles, or whatever you call them, field data, or field notes, to justify the issuance of that final cheque?

A. The voucher on which each cheque was written -- gentlemen, you have to go back a little bit, and follow this thing through.

As the payment certificates came in from a Division Engineer, he certifies that to be correct, and it comes to Head Office of the Department of Highways, and there they are signed by the Construction Engineer, and from him they are signed by the Chief Engineer, and then they are signed by the Deputy Minister.

BY MR. GRUMMETT, Q.C.:

Q. What investigation did these officials make before signing these cheques ?





A. I think you will have to ask those people.

HON. MR. PORTER: I think that was all explained here before. After all, as Mr. Cotnam mentioned in his statement, as Auditor, he is entitled to rely on these certificates of the engineers. He does not have to go behind those, unless they raise a suspicion.

MR. WREN: Would it not be well to make a field check, and say, "Let us see these profiles".

HON. MR. PORTER: I do not know what the Auditor has to do with that.

THE WITNESS: The Auditor is not an engineer, and an auditor, in my opinion, is not competent to pass on profiles and plans. I think he would then be meddling into something about which he knows insufficiently to take a stand on. That is the work of the engineer.

BY MR. WREN:

Q. But when an engineer signs a payment order, would you not think, as an auditor and accountant, he should have supporting documents to support his signing of that payment order, in the way of engineering data, satisfactory to him?

A. They do. They certify that as already having been done.

Q. But earlier on in these investigations -- and this is the point -- it was pointed out to us, and it has



since come out in evidence in the trials, that there were certain original documents which were altered, that there were erasures made, and changes made in the line, and methods they used in computing volumes.

I am not an engineer, so I cannot be too technical, but were there also instances where the actual profile lines were drawn after payments had been issued? In other words, the original profiles filed, as soon as the payments were made?

A. The situation is this, Mr. Wren. The contract is handled in the field, and the payment certificate sent through.

After the job is finished, all the engineering data stays in the field, and it comes down to Head Office and is checked by a group of engineers in the Highway Department to substantiate the quantities which have been paid for. Those things were done.

BY MR. OLIVER:

Q. While the progress payments are being made, does not Head Office add a substantial sum of money to this account?

A. Oh yes, Mr. Oliver.

Q. What do they do?

A. When a contract is let, they add<sup>a</sup> specific sum of money. Then the machinery is set up to approve payment



of that amount, and if the Division feels there will be more money required, they forward engineering data, and say they will need more money to complete this job. They may ask for another \$300,000, shall we say, when it starts at \$300,000.

If it is to be transferred to the Trans-Canada standards, they supply the engineering data, and the Head Office engineers see that, and if they are satisfied, that is added to the original contract.

Q. That is cases where applications are made to spend more money?

A. That is right.

Q. When there was no application to spend more money, was there a copy of the profile filed in the Head Office in Toronto, so it could be checked against the information the engineers sent down?

A. You mean during the course of construction?

Q. After the original cross-sections were made, was the data kept in the field or filed here, before the work started?

A. The pre-engineering which was indicated on the cross-sections is shown, but the trouble is they are not all made before the job is started.

Q. In other words, they were not sent down to the engineers down here? With whatever details they might



have, they had nothing to check against, in the way of technical data?

THE CHAIRMAN: You mean up until the final payment was made?

MR. WREN: Or near it, yes.

MR. COLLINGS: Yes --

MR. WREN: With the Wolfe Company, that was not sufficient.

THE CHAIRMAN: The normal practice is that monthly payments are made, and they are not supposed to be exact measurements. The exact measurements come when the final certificate is issued. That is when the engineering data is forwarded to support the money paid.

But there is engineering data coming forward, and the engineers see that, and if they are satisfied --

MR. WREN: I understand now that a photostatic copy is made of the cross-section material, and filed here in Toronto. Why was that not done before?

THE WITNESS: Well, Mr. Wren, that is quite a job --

BY MR. WREN:

Q. It is such an elementary thing. If you do not do that, you are giving the contractors all your plans and specifications, and leaving yourselves with nothing, and then saying, "When you are through, bring in your bill".





I would think you would want something.

THE CHAIRMAN: I think this could go quite far afield. The evidence is there that the Department engineer is on the job all the way through.

But there is one point which has arisen, and I will ask Mr. Cotnam about it.

BY THE CHAIRMAN:

Q. Mr. Cotnam, did I understand you to say that where the contract is over-run, that essential profiles and so forth, were sent down here to Head Office, and sent back again?

A. In the cross-sections. But when it was known there was going to be an over-run, the field office forwards to Head Office, what they call the "supplementary D-4's", which are the engineers' requisitions, giving the engineers the reasons why more money is needed for this work.

Q. And at that time, one would expect very accurate figures to justify that?

A. Yes; it has to satisfy the engineers in Head Office that that is so.

BY MR. BECKETT, Q.C.!

Q. That would be the quantities?

A. Yes, the quantities, Mr. Beckett.

BY MR. COLLINGS:

Q. Then when these contracts were changed, our



specifications to those of the Trans-Canada, they would have to be changed to conform with the new work.

A. That was greatly increased work.

BY MR. WREN:

Q. In the preliminary hearing of the Standard Paving Company on page 24, a question was asked by Mr. Dubin, of Mr. Zoller:

" Mr. Zoller, when the work is done, up to this time had anybody in Head Office any documents of an engineering nature other than payment certificates?

"A. No, that was all they had in Head Office."

Getting back to the question I had in mind; do you not feel that the Auditor's office should be furnished with supporting documents, especially when they come from the biggest spending Department of Government?

A. The payments are made on supplemental work orders to justify the further payments. You must rely on your engineers. If you are not going to rely on your engineers, you would have to have an auditor for every engineer, and then you might have to have another auditor to audit the accounts.

You would simply be going around in a circle.

BY MR. COLLINGS:

Q. You should have somebody in whom you have



confidence.

A. That is true.

BY MR. WREN:

Q. Why can not the "boss" have something in his office to support these payments? Do you not think they should have on file with the Chief Engineer or the Deputy Minister, or whoever was the head of every branch of the service -- do you not think he could have a complete set of files of what is supposed to be going on?

A. I think he had.

Q. Yes, but you said in evidence that all he had were the progress reports.

A. I do not agree with that.

BY MR. GRUMMETT, Q.C.:

Q. That would not be good business?

A. I do not think that is the way it is, either.

BY MR. OLIVER:

Q. There must have been a weakness when they require now that photostatic copies must be sent to Head Office.

A. I think it was agreed that perhaps there was not enough scrutiny given to this data.

BY THE CHAIRMAN:

Q. Now that you are here, Mr. Cotnam, and we have had an opportunity of hearing a good deal of evidence from you from time to time, as you know, we are here to



make recommendations; do you, as the Provincial Auditor, and responsible, as you have said, to the Legislature -- have you any recommendations you think should be made to us in the way of any additional precautions by way of audits, or anything of that sort, other than what has already been indicated?

A. I know there is an "engineering audit team", as it is called, set up in all Divisions. That, I think, might be a matter for us to determine, if you thought there should be any changes, in relation to the general audit.

Mr. Chairman, I would say this: that now we have got these trials out of the way, I would like to review the whole thing again.

Where I can learn from the lessons of the past, I will gladly learn, and my audit programme is flexible enough so if there are things we can do to further improve them, I will gladly do them.

Q. I think it would be reasonable, except you would be keeping an eye on the Department of Highways --

A. I do not want the people in the Highways Department to feel that they are suspect from me all the time. But let me say this; I will be diligent; I will be careful; I will be cautious, and I will look into Highways, without question.





BY MR. OLIVER:

Q. I think you should keep an eye on them, too.

A. That I will do.

BY THE CHAIRMAN:

Q. Do you believe, Mr. Cotnam, that you have ample powers to do all that?

A. Oh, yes.

THE CHAIRMAN: Surely that clears up the points.

MR. GRUMMETT, Q.C.: Would it not be a good idea to permit Mr. Cotnam sometime to make suggestions and submit them a little later?

Let him think this over, and perhaps before we write our report, he might have suggestions apropos to this, and I think the Highways Department might consider having a school for the instrument men. We have not had such a thing before in the province, and I bring it up so that we may perhaps think of it.

The instrument men are spread across the province, and they are subject to the instructions of the Division Engineers. As I think you will admit, the Division Engineers vary in capacity, and that sort of thing, and their ideas are not always uniform.

If we had a school for our instrument men -- this may not be practical -- but it would seem to me it is a suggestion to which the Committee might give some



consideration. If we had a school where these people could take a course of instruction as to how to proceed with their duties, these things could be made uniform, and that would be beneficial from the instrument man's standpoint, because when he goes onto a job of some kind, he knows the way to proceed, and he does not have to take anybody's word, if he can go to school, and see how things are done, and where he can meet other instrument men from other Divisions.

The trouble is some of these chaps get in a Division, and they do not move out, and they believe that the way things are carried on in that Division, is the way it should be all across Ontario.

I do not think that is the best way. I think the instrument men could benefit from a school of that kind.

THE CHAIRMAN: Thank you very much, Mr. Cotnam.

---The witness retired.

(page 2414 follows)



THE CHAIRMAN: We are going to get a short report from Mr. Maxwell Bruce, Q.C., in connection with the contracts.

MR. OLIVER: He is not connected with the Department?

THE CHAIRMAN: No.

Before proceeding with Mr. Bruce, perhaps we should adjourn for five minutes.

--- Whereupon a short recess was had.

--- Upon resuming.

M A X W E L L     B R U C E, Q. C.

A witness called before the Committee, but not being sworn, deposes and says:

BY THE CHAIRMAN:

Q. Mr. Bruce, if you will just make a report to the Committee, I think the Committee would be interested in knowing what you and your associate, the hon. Mr. McTague, have been working on, on the general form of bonds and contracts, and I asked you to come here, and tell us what was being done.

BY HON. MR. PORTER:

Q. This follows a resolution the Committee passed at one of the last sittings that we retain counsel to investigate these matters and report?



A. Yes. Mr. Chairman, the resolution I believe was passed by the Committee on June 30th last, and, as a result the hon. Attorney-General appointed hon. C.P. McTague and myself to examine the present forms of bonds, and practices, and submit an opinion.

While there is nothing final that I can say at this time on behalf of Mr. McTague and myself, the Chairman has asked that some information be given to you as to what has been undertaken by us, in the meanwhile.

We have consulted the departmental officials, and have considered the forms and practices in connection with the bonds, and have examined some of the files, and had regard to what was said in the J. D. Woods & Gordon report, and in Mr. Cotnam's interim report, given earlier this year.

We checked the forms and apprentices in New York, North Dakota, California, and a number of other places, and have consulted with the principal bonding companies in Toronto as to what their views are, and what problems have been arising.

We have had meetings with the Ontario Road Builders Association, and with a group representing the bonding companies, to discuss these matters, and as a result of meetings held with these two bodies last month, a questionnaire has been circulated to members of the Ontario Road Builders Association, with some twenty-odd questions,





and the results of that are now being tabulated, and it is our hope that these answers may give some practical views toward the difficulty, and possibly some improvement not only in the bond form, but also the form of contracts which it is intended to use, and would at least give an opportunity to those interested to express their views.

It is our hope that in the next few weeks we will not only be able to analyze the answers to that questionnaire, but also to give the Committee of the Bonding Companies an opportunity to express the views of their members on the bond which emerges.

We are also advised that the Department of Highways has its own counsel considering these same general matters, and we are prepared to consult with them to the end that what emerges from our examination, and what views are held by the Department, and by its counsel may be coordinated to whatever extent is desirable, and in due course our opinions will be forwarded to the hon. Attorney-General, and, as I have indicated, will cover not only the form of bond which is in the terms of the resolution itself, but I think we have to embrace also the form of standard contract, because it has been impossible to deal with the bond alone.

It is a very brief form, and is predicated upon the performance of the contract, which is a very lengthy



document when it is taken to include various specifications and subsidiary items which are attached to it.

It is altogether some twenty-odd pages, and will have to be scrutinized carefully, and I am sure our opinion will embrace the whole thing, because it is not easily divisible.

I think that is all I can usefully say at the moment, Mr. Chairman, as to what we are doing.

THE CHAIRMAN: I do not think there will be any particular questions at the moment. It is something which is progressive.

BY MR. OLIVER:

Q. Do you consider further classifications in the contract?

A. The classifications of material?

Q. Yes.

A. These will be discussed, yes, but I cannot say what our views will be.

MR. OLIVER: Does this report come back to the Committee?

THE CHAIRMAN: No, it will go to the hon. Attorney-General.

HON. MR. PORTER: The resolution was that it was to be carried out by the Attorney-General.

THE CHAIRMAN: I think we have adopted a resolution



for the pointing up of the material, and to report, and this is a matter of detail which I thought the Committee would like to know about.

BY MR. OLIVER:

Q. On the question of the classifications in the contract; I think at the moment there are two classifications, earth and rock. I think it is widely felt there should be other classifications, as well.

A. That is the point which is under consideration. I believe it was also discussed in the J. D. Woods-Gordon report.

THE CHAIRMAN: I think that is a matter for the Committee.

MR. OLIVER: I was wondering if that was coming back to the Committee for discussion.

THE CHAIRMAN: No, it is a matter of contract, It is not a matter of policy.

HON. MR. PORTER: One of the difficulties is that any form which is settled upon will have to be one which the bonding companies will be prepared to adopt.

THE WITNESS: That is correct.

HON. MR. PORTER: It may be some time before they are prepared to adopt this form of bond rather than the one to which they have become accustomed.

THE WITNESS: They are interested, and have been very



helpful in putting forward suggestions, and examining what has come through both from the Road Builders Association and yourselves.

THE CHAIRMAN: Thank you very much, Mr. Bruce.

--- The deponent retired.

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THE CHAIRMAN: At this point, Mr. Oliver, you wished to give some indication of the matter about which you spoke this morning, in order to assist us in getting our timetable established.

I propose to call Mr. Zoller for a few moments, but before we do that, if you have any plans with regard to any witnesses, they will have to be implemented right away.

MR. OLIVER: This morning I indicated we would like to call certain witnesses, and I am prepared to give the list to you, Mr. Chairman, at the present time.

We wish to have called Mr. McDonald, the instrument man in the Fort William Division, who gave evidence that he falsified the records on more than one contract, over a period of years, and who is still working for the Department of Highways.

THE CHAIRMAN: May we just deal with these as we go along?

The testimony of McDonald appears in the preliminary





hearing, and appears again at one, if not two, trials.

MR. OLIVER: In spite of that, I think it would be to the benefit of the Committee, if we had Mr. McDonald's views, perhaps in excess of what he gave at the trials.

I think it would help us to understand, and to appreciate just what was behind some of these irregularities.

I do not know how the Committee is going to do its work effectively if it does not hear some of these men who were closely connected with the whole matter.

THE CHAIRMAN: May we have the whole list, and then we can deal with them individually?

MR. OLIVER: I will give you the whole list.

We think we should hear Donald Patterson, the ex-Division Engineer of the Huntsville Division.

Particularly, we would like to hear Mr. Patterson, because we understand that considerable pressure was brought upon him to plead guilty, and I think we should have it from his own lips, as to what transpired, and what was in his mind.

THE CHAIRMAN: Have you asked Mr. Patterson to appear?

MR. OLIVER: No, I did not think that was my responsibility.



THE CHAIRMAN: Have you asked Mr. McDonald to appear?

MR. OLIVER: No, I have not.

THE CHAIRMAN: Who else?

MR. OLIVER: We think Mr. Mills should be called, the ex-Division Engineer at Fort William.

THE CHAIRMAN: Have you asked Mr. Mills to appear?

MR. OLIVER: why do you keep asking me that. What responsibility have I to ask them to appear? Surely it is the Committee's responsibility to ask them to appear. I do not have to run up to Fort William to ask him if he wants to appear.

THE CHAIRMAN: If Mr. Mills wishes to come down here, the Committee will hear him.

If Mr. Patterson wishes to come before this Committee -

MR. OLIVER: If that is the attitude my friend the Chairman is taking, there is no use in going further.

THE CHAIRMAN: I am not taking any attitude at all -

MR. GRUMMETT, Q.C.: That is what it is.

THE CHAIRMAN: I do not think we should subpoena before this Committee Mr. Mills and Mr. Patterson, who have already been subjected to trials, and everything else these people have been subjected to.



HON. MR. PORTER: Beside that, Mr. Mills was convicted.

MR. OLIVER: That does not hinder Mr. Mills from giving evidence.

MR. BECKETT, Q.C.: Have you read the evidence of the trials?

MR. OLIVER. Yes.

MR. BECKETT, Q.C.: You have read them all?

MR. OLIVER: Yes, every one of them, thoroughly.

We think Mr. Breadin should appear before the Committee, he was charged and the charges, and the charges were withdrawn, and apparently he wants his job back, but has been refused by the Department. I think his story should be before the Committee.

Particularly, we should have Mr. Duncan Gordon back before the Committee, but it would not be necessary to subpoena him. He should tell us what was behind the recommendations, something which he has not yet done. What he did was write the recommendations.

The specific recommendations Mr. Gordon made to this Committee were very evidently based on a searching enquiry as to the foundation material, and I believe the Committee must be in possession of that material, before it can come to an intelligent conclusion.

Certainly I think we should have Mrs. Wolfe, of



the Wolfe Construction Company, or whoever the responsible officer of that company is.

This company admittedly was overpaid by \$900,000., and a discussion to-day revolved around the fact that a contract has now been given to a former member of that company.

I think there are pertinent matters with respect to that company which should be examined into by the Committee.

That was our purpose at the outset, and we would be doing less than our duty if we do not follow that up.

I think we should hear Mr. Hayward Hurell, whose evidence was given at page 41 of the Tomlinson hearing, who said it was the accepted practice to change "earth" into "rock".

If it was the "accepted practice" as Mr. Hurell says it was, then we should be made aware of the situation which existed in the Department.

I think we should have, in connection with the Atikoken Highway, before this Committee dissolves or writes its report, the principal officers of each contracting company on the Atikoken Highway, to state whether they agree with the position taken by the Government as to the payments on these contracts. These are contracts which are in dispute. There is a definite





difference of opinion as between the claims of the contractors, and the position of the Government in relation to these contracts, and if we are going to make a worthwhile report, we have to be fortified with the evidence they can give to the Committee.

We should have Mr. Lazier, who is the Head Engineer of the Ontario Hydro. He would be in a position to give evidence that highway bids were much too low, from his experience with the Ontario Hydro.

I think we should also have Mr. Perry, the General-Manager of the United States Fidelity & Guaranty Company, who will give evidence as to the position that the bonding company is taking on contract-over-payments.

THE CHAIRMAN: We had someone from the bonding company here.

MR. OLIVER: This particular angle was never disclosed to us, and it could not be, until the trials were over. Now that the trials are over, there is no reason why these companies cannot present their attitude toward the over-run payments which have been going on.

THE CHAIRMAN: I think that is a matter of the responsibility for the Department.

MR. OLIVER: Surely it is the responsibility of this Committee.

THE CHAIRMAN: Now, let us look at these names.



You mentioned Mr. Hayward Hurell, and page 32.

Mr. Hurell was a man who gave evidence on behalf of the Crown as one of the junior employees of the Department. He was given protection, and he has given very full evidence at these trials. I do not think we, in this Committee, should subpoena him to come before this Committee unless he himself wants to come.

His evidence will be quoted at considerable length, in the report we will make.

MR. JANES: Unless he has something to add.

THE CHAIRMAN: If any gentleman, of his own volition wants to come, I do not think we should refuse them the opportunity. But I do think that to subpoena them would be unfair.

I would say this, that if it had not been for the evidence of people like that, there could have been no convictions at all. I think Mr. Grummett will agree with me on that.

I do not think it is fair to expect these to be subpoenaed to appear before this Committee. If any one of them indicates he wants to come, we will give him that opportunity.

I would say to the press that if any one of these gentlemen wants to come before this Committee, we will hear him, but I think I also speak for the majority, if not all,



of the Committee, when I say we will not issue a Speaker's warrant to bring them, especially those you mentioned, McDonald - and I would include Patterson and Mills definitely - and the ones you mentioned a few moments ago, Mr. Hurell and Mr. Bredin..

MR. OLIVER: There is no reason why they should be dealt with unfairly before this Committee. They very probably would have, I think, very valuable information to give to the Committee, and I do not see how it would jeopardize their position one way or another.

I think you are unduly alarmed as to the possibilities

THE CHAIRMAN: If anyone wants to come here, we will hear him.

MR. OLIVER: I move that the list of witnesses I have outlined be called to appear before this Committee.

THE CHAIRMAN: Before you move that, let us deal with the others.

As far as Mr. Gordon is concerned, I think he will volunteer to appear before the Committee.

If Mr. Perry wants to come -

MR. OLIVER: Well, is that not just too bad. If we want them, we have ways and means of bringing them.

THE CHAIRMAN: Let us go back to what happened when we were trying to get Mr. Perry, and we finally settled on Mr. Tuttle, and unless Mr. Perry wants to come



and give any further explanation, or something by way of an addition to the previous evidence, I do not think we should chase after him.

MR. OLIVER: Those who desire to come may now come forward; those who do not may refuse.

MR. GRUMMETT, Q.C.: I think these witnesses should be brought before the Committee.

THE CHAIRMAN: May I just deal with Mr. Lazier of the Ontario Hydro.

HON. MR. PORTER: We had all sorts of expert evidence on this subject.

THE CHAIRMAN: Is there any reason for Mr. Lazier wishing to come before the Committee?

MR. OLIVER: No, I have no reason to believe that he has any wishes.

THE CHAIRMAN: We can get in touch with Mr. Lazier of the Ontario Hydro, and if he wants to come before this Committee, certainly he will be heard.

As a matter of fact, we might get in touch with all these people and see if they want to come.

MR. WREN: It is not a matter of whether they "want to come" or not. We want them before the Committee.

MR. GRUMMETT, Q.C.: We want to hear their evidence,

THE CHAIRMAN: As far as McDonald, Patterson, Mills, Bredin and Hurell are concerned, I do not think we have any





right to subject those people to anything further than they have already been subjected to.

MR. OLIVER: I move that these names I have just mentioned on the list be brought before the Committee.

MR. GRUMMETT, Q.C.: I will second that.

MR. COLLINGS: I will move an amendment that Mr. Gordon, Mr. Lazier, Mr. Perry, and Mrs. Wolfe be dealt with in a separate motion.

MR. BECKETT, Q.C.: There is one other thing there, "the principal officers of each of these contractors". I do not know whether they should be named or not.

THE CHAIRMAN: Is there a seconder to the amendment?

MR. JANES: How would it be to have the secretary write to these individuals and ask them if they would care to come before the Committee.

THE CHAIRMAN: My thought was if any of these gentlemen want to come, he should be given every opportunity. Perhaps the secretary could contact them by telephone, and find out if they want to come -

MR. COLLINGS: I would alter my amendment, that they be contacted by telephone immediately.

MR. JANES: I think that is the best plan.

MR. COLLINGS: We want to deal with them separately.

MR. OLIVER: That puts the Committee in a ridiculous position.



THE CHAIRMAN: You move the whole list be asked to come before this Committee?

MR. OLIVER: I certainly do.

THE CHAIRMAN: Let us see who they are. Messrs. McDonald, Patterson, Mills, Bredin, Gordon, Hurell, and Lazier, Mrs. Wolfe, and the principal officers of each contracting company on the Atikoken Highway.

MR. COLLINGS: I am pressing my amendment. Mr. Oliver moved they be subpoenaed. I move an amendment that the secretary be instructed to contact them by telephone.

THE CHAIRMAN: As to the first seven; they are named, but as to the "principal officers of each contracting company" that is very indefinite.

In view of the enquiries which have been proceeding with respect to them -

MR. BECKETT, Q.C.: We should name some officer, Mr. Chairman.

THE CHAIRMAN: There is an amendment moved by Mr. Collings, seconded by Mr. Beckett, that the people on this list be contacted by the secretary, and that Mrs. Wolfe, whose son recently obtained a contract - these seven be notified by the secretary, if possible by telephone, and if they wish to come before this Committee, we will hear them, but if they are coming they must come as quickly as possible, because this Committee is in its last days of existence.



MR. WREN: And if they indicate they do not wish to come?

HON. MR. PORTER: Give them the opportunity to make an explanation of their own position, if they want to.

We do not think it is fair to subpoena someone who has been convicted, to go into matters upon which he was convicted.

THE CHAIRMAN: Are you ready for the amendment? Is everybody clear on the amendment? The effect of the amendment is to automatically rule out the motion, if the amendment carries. What is your pleasure?

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THE CHAIRMAN: It is clear the amendment carries. That leaves the question of the principal officers out altogether.

MR. COLLINGS: We would not know who they are.

MR. BECKETT, Q.C.: All the contracting companies on the Atikoken Highway.

THE CHAIRMAN: Is there any particular one the Leader of the Opposition wants to name, and we will have the secretary communicate with him by telephone.

MR. OLIVER: I think I should speak frankly in this regard. If you cannot see fit to call before this



Committee those whom I have outlined, I cannot see any purpose in proceeding.

This Committee was set up to get the fullest possible information and enquire diligently and exhaustively into all matters of highway irregularities. We feel that these gentlemen could give the Committee information which would be valuable in helping us to formulate our conclusions to be presented to the Legislature.

This move on the part of the Government has completely stymied our efforts in this connection, and so far as I am concerned, Mr. Chairman, it has relieved me, so far as I can see, of the necessity of sitting in this Committee longer because no good purpose will be served.

If we are to be thwarted at every turn by the strong majority in this Committee, then the purpose of continuing with its operations has vanished, and we will not be able to arrive at a solution of the problems which can be recommended to the Legislature.

So far as we are concerned, "that is it". You can go ahead and write your report, and we will write ours, and we will take ours before the larger arena and submit it before the bar of public opinion in this province.

If that is the way you want things run, run them that way. If that is the way you want to whitewash this thing, then whitewash it. If you do not want the full





facts, then keep the full facts from coming out.

I, myself, am not interested in proceeding further under the present auspices. I see no object in going on further.

MR. GRUMMETT, Q.C.: Mr. Chairman, I am in complete agreement with the remarks made by Mr. Oliver and I see no use in proceeding further. I was looking through this little book, (indicating) and I find that this is the 13th committee upon which I have sat, and never before have we got the "round around" that we have here. There does not appear to be any desire to bring out the facts behind what is wrong. Why not admit that the Department of Highways has been poorly managed and that something should be done.

Every move we in the Opposition make, some member of the Committee attempts to draw a red herring across whatever trail we may be following. I agree wholeheartedly with Mr. Oliver that there is no further need of our serving on this Committee.

HON. MR. PORTER: What "red herrings" have been thrown across what trail? I would like to know that.

THE CHAIRMAN: So would I.

MR. WREN: I am in complete accord with the statements made by my Leader and the House Leader of the CCF in this connection.

MR. DENT: Mr. Grummett, do you think it is fair



to ask these men who have been witnesses at certain trials to be subpoenaed to come before us? As a lawyer, do you think that is fair?

MR. GRUMMETT, Q.C.: I do.

MR. DENT: Well, I do not.

MR. GRUMMETT, Q.C.: I do not care what you think. I have argued this with three or four members who have attempted to stymie every move that we in the Opposition have made, and I will not stay further.

MR. DENT: You are asking for the personal persecution of people who have been before the Courts.

HON. MR. PORTER: And have been convicted.

MR. GRUMMETT, Q.C.: They can tell us a great deal, and we are entitled to know it. It appears you do not want to find out; all you want is to whitewash the whole damn thing.

SEVERAL MEMBERS: Oh, oh.

MR. COLLINGS: Such language, Mr. Grummett.

MR. DENT: You are being led by a couple of stray boys. You had better sit down.

--- Messrs. Oliver, Wren and Grummett retired.

MR. COLLINGS: I think if they have any more "dead rabbits" up their sleeves, they should bring them out into the open.

The hon. Attorney-General says we should not bring



these men who have been before the public, and appeared before the Courts of this province, and put them through any more.

We have now instructed our secretary to get in touch with them by telephone. We will advise them if they have anything they wish to offer, it is their privilege to come before us.

THE CHAIRMAN: All I can say is this is about as childish a situation as I have ever seen in all my nine or ten years in the Legislature. I have nothing but contempt for the attitude of the three members who walked out at this time.

HON. MR. PORTER: It is only at this moment, after a whole day's sitting, and after weeks have elapsed that the names of these witnesses have been mentioned at all.

There was no suggestion made to the Chairman; no suggestion at an earlier meeting of this Committee, that these gentlemen should be called. At the last minute - at nearly 5:00 o'clock p.m. -

THE CHAIRMAN: The public of this province will have the opportunity of dealing with these charges. Actually I have full confidence about that, and I think that our friends of the press will be fair enough to see that the public gets the information that this Committee has, and will continue to do its job to the best of its



ability. The many pages of evidence taken before this Committee, the evidence at the trials, and the report which will follow, I am sure will prove that conclusively.

There has never been any attempt to "whitewash"; there has been no attempt to be a bedfellow with dishonesty, and I think that will be shown very clearly.

MR. COLLINGS: I move we adjourn until 10:30 tomorrow morning.

THE CHAIRMAN: Before that motion is put, may I say that Mr. Zoller is here. I imagine he will only require a few moments, and if it is the wish of the Committee, perhaps we could hear him now.

MR. COLLINGS: Very well.

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J O H N L. Z O L L E R,

Comptroller, the Department of Highways, a witness previously heard, and now recalled, and having been already sworn, continues his testimony as follows:

BY THE CHAIRMAN:

Q. Mr. Zoller, your position is that of Comptroller of the Department of Highways?

A. That is right.

Q. You have given a considerable amount of evidence at different times, and have heard the proceedings here to-day?





A. Yes.

Q. I think this Committee would like to be brought right up to the minute with respect to one or two things, particularly with reference to the position which you outlined some months ago, when you said, I think - and correct me if I am wrong - that in all, there were some sixteen contracts where there may have been overpayments by the Department to the contractors, and that the outside figure which might be involved was two and one-half million dollars

A. That is right.

Q. Could you bring us up to the minute on that situation

A. At that time I made the general statement and said it would not exceed two and one-half million dollars, and in all probability it would be reduced because of the claims which would come in from contractors after these trials have been completed.

As to giving details; we are unable to give complete details, because, for instance, in connection with the Atikoken road, they are now just being discussed, and Dr. Young is giving these contracts his consideration, so until we get Dr. Young's report and see what he recommends or suggests in regard to the handling of these contracts, and until we get the report of the Chief Engineer's recommendations, we cannot give you any figures on the Atikoken road.

I can say this much, however, that the two and one-half million dollars is an outside figure, and after the



final figure is ascertained, I think that will be reduced by at least \$400,000 on the Atikoken road.

That is accounted for by the fact that some of these contractors had been working,- doing work on the job - all last summer.

They have not had a cent of any kind - those who owed us money - since last September, and so any work they completed reduced their liability to us.

I should say that about \$400,000 has been reduced in that way.

I do not know what Dr, Young's recommendation may be as far as those contracts are concerned.

Now, consider the Wolfe Construction -

BY HON. MR.MAPLEDORAM:

Q. That is on the Maratha job?

A. Yes.

Q. That is \$400,000?

A. No, the \$400,000 is purely in connection with the Atikoken job. That is, two and one-half million dollars can be reduced by \$400,000,in view of the fact that the Atikoken contractors continued to work.

The Wolfe Construction is practically the same.

BY THE CHAIRMAN:

Q. What was the Wolfe figure?

A. Nine hundred thousand and some odd dollars, but the



measurements have been made, but we have to have any claims which Wolfe may have to submit, and these will be handled through the procedure which we now have. Mr. Wolfe has not as yet submitted his claims. I imagine he is waiting until the trials were completed, to see what the result of the trials was going to be.

I think the same condition exists as far as Tomlinson Brothers was concerned. They want to get paid for some of their work, and probably will now submit any claim they may have.

It is the same thing with Bergman Construction. They are doing the same thing

BY THE CHAIRMAN:

Q. Mrs. Wolfe would be a senior officer?

A. Yes.

Q. You say the Government has a claim of upward of \$900,000?

A. That is right.

Q. And it will be taken to the Courts?

A. We will have to wait and see what claims are submitted by the Wolfe Construction Company.

Q. Is there a dispute under way at the present time?

A. In this way; they claim they were doing work there other than under the terms of the contract.

BY HON. MR. PORTER:

Q. There will be some off-setting items?



A. Yes.

Q. But you do not know what they will amount to as yet?

A. They have not submitted them.

BY THE CHAIRMAN:

Q. Would it be fair to call the officers before this Committee if, in fact, the Government has a claim of \$900,000 against the company, which may be settled amicably with the Government, or by the Courts?

MR. BECKETT, Q.C.: Not until we know what the claims are.

HON. MR. PORTER: This Committee is not in a position to settle these claims or to decide whether there are off-setting items or not. I do feel that young Wolfe did not submit his claims, waiting for the result of these trials, because the result of these trials would have some bearing on what he submits.

I think it is the same thing with Tomlinson. They were trying to establish at one time that they were on a cost-plus basis, but that will not be established.

When those are received, we can deal with Wolfe. How much that \$900,000 can be reduced, and how much we can recover, will be decided when we get his claims.

BY HON. MR. MAPLEDORAM:

Q. There is no possibility of claims amounting to





more than the \$900,000?

A. No, we would not think so.

BY THE CHAIRMAN:

Q. Now, that deals with the Wolfe situation. Then there has been the trials.

A. In connection with the trials, we have a considerable sum of money. We have around \$750,000 in money in our hands to off-set against this two and one-half million dollars.

BY HON. MR. PORTER:

Q. There is that much to which we are entitled by way of restitution as a result of these trials?

A. Yes .

BY THE CHAIRMAN:

Q. What is the total of that? It seems to me it was \$360,000.

A. I think it was \$360,000 or \$336,000 by Tomlinson; Bergmann was \$136,000, or something in that neighbourhood. There was no amount mentioned in the last trial.

Q. There could be half a million dollars represented there?

A. Yes, and we have more money than that. We have sufficient to cover Tomlinson, the Standard Paving, and Bergmann.

BY MR. JANES:

Q. There is \$400,000 on the top of that?



A. Yes

Q. That would be well over \$1,000,000.

A. Yes, and probably claims which might reduce the balance.

BY MR. BECKETT, Q.C.:

Q. And there might be claims against the contractor?

A. Yes

BY HON. MR. MAPLEDORAM:

Q. Tomlinson was fined \$100,000, and you have \$336,000 you are holding of his money.

A. About that.

Q. It could be that it might be \$336,000 less than the claims he may put against us, but he is out now \$436,000?

A. That is right.

Q. That is something the public does not understand?

A. Yes.

BY MR. JAMES:

Q. The two and one-half million dollars is cut in half now?

A. We cannot give the final figure until all the claims are in.

BY HON. MR. MAPLEDORAM:

Q. Tomlinson will have to have a pretty good claim to get anything out of that \$436,000?



A. That is sure. He can go before the Board of Review.

BY THE CHAIRMAN:

Q. Would you care to give us any revision of those figures you have given some months ago? You have already given us some details, but have you any figure in your mind?

A. That could reduce the two and a half million, by the Tomlinson and Standard Paving matters - although we have no figure for the Standard Paving - but there is in the neighbourhood of \$150,000, and Bergmann represents about \$136,000, and we have roughly three-quarters of a million dollars and \$400,000 in the other, so you have in the neighbourhood of one million one hundred thousand dollars.

BY MR. HERBERT:

Q. Before you deal with his claim?

A. Yes. So the payment is down about \$1,100,000.

BY MR. COLLINGS:

Q. When the whole thing is wound up, we may owe them some money yet?

A. Yes.

BY THE CHAIRMAN:

Q. The balance involves how many contracts now?

A. There will be on the Atikoken road - they are not



all included in that. I would imagine about seven contracts left to be considered.

BY MR. BECKETT, Q.C.:

Q. Apart from the ones you considered?

A. That includes the Wolfe three.

BY THE CHAIRMAN:

Q. From sixteen you were down to seven contracts, and from two and one-half million dollars you were down to about one and one-quarter million dollars?

A. That is right. I cannot give you the accurate figure, because we have not got it yet.

Q. Is there anything else you think might be helpful to the Committee at the present time?

A. No. In regard to this man Wolfe. Wolfe is not in bankruptcy.

BY MR. COLLINGS:

Q. The Wolfe company is not in bankruptcy?

A. No.

BY MR. BECKETT, Q.C.:

Q. Whether it is Mrs. Wolfe or the son.

A. The father died, and the son tried to carry on and finish the job.

As far as I know, the Wolfe Construction Company is not in bankruptcy.

I thought I should mention that.





MR. COLLINGS: Yes, I am glad you did.

HON. MR. MAPLEDORAM: I understand they paid all their bills.

HON. MR. PORTER: Yes, I think it is important to know that. I thought they were in bankruptcy.

HON. MR. MAPLEDORAM: They owed a great deal of money around the lake head, but as far as I know all their bills are paid.

BY MR. COLLINGS:

Q. Did they finish their contract?

A. Yes, they finished their contract.

BY HON. MR. PORTER:

Q. Did they do a good job on the road, or do you know about that?

A. The Committee was over the road. I was not over the road myself.

HON. MR. MAPLEDORAM: I think it was a very good road.

MR. COLLINGS: All the roads were good roads.

THE WITNESS: I do not know about cleaning up this contract with young John Wolfe.

HON. MR. MAPLEDORAM: I think that would be interesting.

THE WITNESS: Here is a case where our lowest tenderer got the contract. Our lowest tenderer was John Wolfe.



I talked to him and he said he had the equipment. Where he got it we do not know, but that no doubt has been in the hands of the bonding company.

If Wolfe can get a contract, and can get a bond, and we see the Engineer is looking after the contract properly, we cannot lose any money on it.

HON. MR. MAPLEDORAM: Why should it be given to a high bidder when there is a low bidder?

THE WITNESS: John Wolfe - while he was an interested party, was not primarily the Wolfe Construction Company. He is a man of good integrity. He has vowed he will pay back all the money.

BY THE CHAIRMAN:

Q. Is there any arrangement made as yet?

A. No, we have not been in touch with John.

BY HON. MR. PORTER:

Q. We have to find out what the amount is; and the result of his cross-claims, and so forth.

BY THE CHAIRMAN:

Q. There was some suggestion that John was using the equipment of the other company.

A. If he is, I imagine it is with the consent of the bonding company, because I would think they would grab the equipment.

THE CHAIRMAN: If there is anything the Department



can do to ensure collecting the money from John, I think it should be done.

MR. JANES: Evidently young Wolfe is an innocent man, as far as we are concerned. We would not dare brand him now.

BY HON. MR. MAPLEDORAM:

Q. The whole thing depends on the bonding company? If they are content to give John a bond -

A. That is right, and we keep the engineering straight, we cannot lose any money.

BY THE CHAIRMAN:

Q. And you may recoup some of the other money?

A. That may be. John Wolfe has vowed he will pay all the accounts of the Wolfe Construction Company. Whether that is in the years to come, I cannot say, but that is what he told me.

MR. COLLINGS: I guess he realized there are million of dollars to be spent in this province, and he wants to make good.

HON. MR. PORTER: And he has to make a living.

MR. COLLINGS. Yes. I for one, would not want to trample him in the dust.

MR. JANES: I will give him all the help I can.

BY THE CHAIRMAN:

Q. Are there any recommendations you would like to



make to this Committee? You have been in close touch with this whole matter?

A. I think we have done a lot of work in the Department of Highways to tighten up all this looseness which was in there. We have done our best, and I think we will be continuing to do so. When we find that something might go wrong, we will tighten it up.

Pre-engineering will be increased; the contracts will not be used as they were, and property will be purchased in a different way, and I think this big problem of over-runs will disappear to a great extent.

I think that is the whole thing now.

Q. You are in the audit end of the Department?

A. Yes. We have been told a bit about field engineering audits. I was rather under the impression when we came back from the North that there might be some duties put on the local accountants, so they would know more about what is going on. It would be one more check.

A. That is something which is straightening itself out. I think at the last meeting we were talking about that.

Q. You have already issued some instructions?

A. Yes.

Q. And I think you said that you thought that one who was doing the auditing should be outside the Division.





A. Yes. It was suggested we have an auditor in each Division. I did not agree with that, because it can become too personal, so we send up a man once or twice periodically to make a complete check.

Q. There is one point I would like to ask you about in the over-all picture. You are the acting Deputy now?

A. Yes.

Q. For my own information - the other members of the Committee may or may not agree with that - but I was of the opinion after our trip through Fort William and the other districts up there - Kenora and Fort William - that there was an apparent lack of inspection by senior Head Office personnel, and that might have had some bearing on the conditions which we found to exist.

If I am correct in that, it seems to me - and this was discussed rather informally by the sub-Committee - but the thought occurred that perhaps you might inaugurate a sub-Head Office in the North, reporting directly to the Head Office here, with direction over three or four Divisions in the North?

Do you think that might be a move in the right direction?

A. That is under consideration at the moment. There again, of course, is the establishing of a District office to have jurisdiction over one or two other Divisions, as



the case may be, and it is a matter of staff, of getting the properly-qualified staff.

If you take away from what is there now, you will have to put in a junior staff outside, and that is one of the main difficulties.

The main thing at the moment is to get the road programme working again, and we need engineers, and the others can follow along later.

That is what we are working on now. We cannot stop building roads. That is one thing we cannot do.

BY HON. MR. MAPLEDORAM:

Q. And you have to maintain them too?

A. Yes, that is certain.

THE CHAIRMAN: Thank you Mr. Zoller for coming before us again.

--- The witness retired.

THE CHAIRMAN: This might be a good time for us to adjourn.

HON. MR. PORTER: It is quite obvious to me that this list of witnesses produced at 5:00 o'clock this evening, was with knowledge on the part of Mr. Oliver that this Committee would never "go for" subpoenaing men who have been on trial and who were convicted.

I think he had every intention of walking out of this Committee, and wanted to make that an excuse.



He knows we have not done what Mr. Grummett has suggested, that is, "stymied every move". As a matter of fact, we have done the opposite. There has not been one thing we have done which has not been agreed to by Mr. Grummett until this last-minute list came up. That was done for a purpose, and only for one purpose. They knew perfectly well that this Committee was composed of fair men, and we would not call these persons and ask them any further questions.

MR. COLLINGS: Mr. Lazier, of the Ontario Hydro; if he has any experience, we should hear him.

HON. MR. PORTER: As far as the bonds were concerned that was fully explained, and I do not think there is anything more anyone wants to find out about it.

We have evidence to-day that counsel are working on the contracts and bonds to see whether there is some better method, and some additional protection which might be given.

MR. BECKETT, Q.C.: Until they complete that, I do not think we should call any further evidence, such as Mr. Perry.

HON. MR. PORTER: Unless some member of the Committee has a particular question in mind. I do not know what questions the other gentlemen had in mind, those who have voluntarily withdrawn.



THE CHAIRMAN: Mr. Salsberg did write a letter to this Committee on January 4th. It was written to me, as Chairman, which I understand he gave to the press.

MR. BECKETT, Q.C.: It was in the press, yes.

THE CHAIRMAN: But they gave it less coverage than usual. In that letter he made certain statements, and he wanted to repeat them to the Committee in the hope of getting some further hearing. I can see no other purpose for it, because it is completely extraneous material.

HON. MR. PORTER: Mr. Salsberg has no evidence to give to this Committee. He simply wants to make a speech. He is in no different position than any other member of this Legislature.

MR. JANES: He wants to use this Committee as a sounding board.

THE CHAIRMAN: I told him if he stayed here, we would be dealing with the correspondence, and we might take his letter up. However, he is not here. We will file the correspondence.

There is another letter on file here which involves some correspondence. There has been some question raised by citizens at times asking the pertinent question as to why certain highways are not completed faster, and why the road between Barrie and Orillia was not completed, as well as the second lane between Niagara Falls and Fort Erie.





The Deputy Minister has given the answers, which we passed on to the gentleman, and I trust he is satisfied with them.

Gentlemen, we have come to the hour for adjournment until to-morrow morning. We did have in mind a tour of the headquarters and the other section. Mr. Grant is not here at the moment, and we might settle right now when we will make that tour.

My view is we assemble here to-morrow morning at 10:00 o'clock, and if there is anything to report in regard to the calls to be made by the secretary, the report can be made at that time. I think that anybody appearing should be asked to appear to-morrow or the following day, if possible.

I then propose to introduce as soon as we have concluded our evidence, a draft report for first reading. It may be read by members of the Committee, who may digest it, perhaps, overnight, and it may be given the second reading the following day.

If to-morrow morning we find there are no more witnesses to be heard, could we then perhaps devote the afternoon to part of this tour?

MR. CLARKE: Yes, sir. I think that could be arranged all right.

THE CHAIRMAN: We can say definitely in the morning.



There are some exhibits here, starting with Exhibit 61, which might be filed at this time.

EXHIBIT NUMBER 61: Statute relating to the Division of Highways, Department of Public Works, State of California, was filed and marked as Exhibit No. 61.

EXHIBIT NUMBER 61A: Powers and Duties of California Highway Commission, Director of Public Works and State Highway Engineer, was filed and marked as Exhibit No. 61A.

EXHIBIT NUMBER 62: North Dakota Sufficiency Rating Coding Manual was filed and marked as Exhibit No. 62.

EXHIBIT NUMBER 62A: North Dakota Part I Condition (Par. 40) was filed and marked as Exhibit No. 62A.

EXHIBIT NUMBER 63: Principles of Design, Construction and Traffic Control (Inspector General of German Roads) was filed and marked as Exhibit No. 63.

EXHIBIT NUMBER 64: Report of New York State Temporary Highway Finance Planning Commission (February 1954) was filed and marked as Exhibit No. 64.

EXHIBIT NUMBER 65: Evidence of the Preliminary Hearing of Regina vs Douglas F. Cutting, Donald T. Gandier, Thomas L. Ayres and Graham W. Turner, dated April 9th, 1954, was filed and marked as Exhibit No. 65.

EXHIBIT NUMBER 66: Evidence of the trial of the Queen vs. Douglas F. Cutting, Donald T. Gandier, Thomas L. Ayres and Graham W. Turner, dated June 7th and 8th, 1954, was filed and marked as



EXHIBIT NUMBER 67: Evidence of the Preliminary Hearing of Regina v Arthur M. Mills, dated April 8th 1954, was filed and marked as Exhibit No. 67.

EXHIBIT NUMBER 68: Evidence of the Preliminary Hearing of Regina vs Tomlinson Bros. Ltd., Tomlinson Bros. Eastern Ltd., W. S. Tomlinson, C. W. Taylor, Arthur M. Mills and R.F.Peturrson, dated July 13th, 1954, was filed and marked as Exhibit No. 68.

EXHIBIT NUMBER 69: Evidence of the Preliminary Hearing of Regina vs Bergmann et al, dated July 20th, 1954, was filed and marked as Exhibit No. 69.

EXHIBIT NUMBER 70: Evidence of the Preliminary Hearing of Regina vs. Standard Paving Limited, E. Bird-sall and Cecil H. Nelson, dated July 28th, 1954, was filed and marked as Exhibit No. 70.

EXHIBIT NUMBER 71: Evidence of the trial of the Queen vs. Tomlinson Bros. Limited, Tomlinson Bros. (Eastern) Ltd., W. S. Tomlinson, C. W. Taylor and Arthur M. Mills, dated October 18th, 1954, was filed and marked as Exhibit No. 71

EXHIBIT NUMBER 72: Evidence of the trial of Regina vs. Bergmann Construction Company, Walter Bergmann, Donald S. Patterson, John A. West and William Leonard Bredin, dated December 17th, 1954, was filed and marked as Exhibit No. 72.

EXHIBIT NUMBER 73: Evidence of the trial of Her Majesty the Queen vs. Standard Paving Limited and E. Birdsall, dated January 17th, 1954, was filed and marked as Exhibit No. 73.



EXHIBIT NUMBER 74: Report of the Provincial Auditor, dated January 24th, 1954, was filed and marked as Exhibit No. 74.

EXHIBIT NUMBER 74A: Analytical Summary of 1949 contracts comparing contract amounts with total of payments and holdbacks to April 28, 1954, was filed and marked as Exhibit No. 74A.

EXHIBIT NUMBER 74B: Analytical Summary of 1951 contracts comparing contract amounts with total of payments and hold backs to April 28, 1954, was filed and marked as Exhibit No. 74B.

EXHIBIT NUMBER 74C: Schedule of 1952 Construction contracts awarded for Grading, Surfacing, Paving, Bridges, et cetera, completed as of December 31, 1954, was filed and marked as Exhibit No. 74C.

That will bring our Exhibits up to the minute.

We will adjourn now until 10:00 o'clock to-morrow morning.

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--- Whereupon at 5:12 o'clock p.m., the further proceedings of this Committee adjourned until Wednesday, January 26th, 1955, at 10:00 o'clock in the forenoon.

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# **P R O C E E D I N G S**

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**of the**

**Select Committee of the Ontario  
Legislature appointed to enquire  
into matters concerning certain  
Divisions of the Department of  
Highways.**

**MR. A. KELSO ROBERTS, Q.C., CHAIRMAN**

**PRESIDING.**

**MR. V. J. JOHNSON, SECRETARY.**

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**TORONTO, ONTARIO,**

**WEDNESDAY, JANUARY 26, 1955**

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T W E N T Y - S E V E N T H   D A Y

Toronto, Ontario,  
Wednesday, January 25th, 1955,  
10:16 o'clock, a.m.

- - - - -

The further proceedings of this Committee  
reconvened pursuant to adjournment.

All parties present (excepting Messrs. Oliver,  
Wren and Grummett).

Mr. A. Kelso Roberts, Q.C., Chairman,  
Presiding.

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PRESENT:

Mr. A. Kelso Roberts, Q.C. (Chairman),

Hon. Dana Porter, Q.C.,

Hon. Clare Mapledoram,

Messrs. Beckett, Q.C.,

Janes,

Herbert,

Collings,

Dent,

Mr. L. R. MacTavish, Q.C., Committee Counsel

Mr. V. J. Johnson, Committee Secretary.



APPEARANCES:

Mr. Peter Wright, Q.C.,

Mr. Harvey Cotnam, F.C.A.,

Mr. George Spence,

Mr. Duncan Gordon.

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THE CHAIRMAN: Gentlemen, I will call the meeting to order, and I will ask the Secretary to report the result of his telephone calls and communications, which he has very diligently pursued since we adjourned last evening.

MR. JOHNSON (Secretary): In regard to the list of witnesses; I contacted Mr. Patrick J. MacDonald and he said he did not want to testify, and his answer is "no".

Donald Patterson said he was not interested and did not want to testify.

Mr. A. M. Mills was not going to go through this again, and his answer is "no".

Mr. Bredin says that he has another job, at which he wishes to stay, and his answer is "no".

Mr. Duncan Gordon was requested, and he is here.

Mr. Hayward W. Hurell. I have not been able to contact him, but later today I hope I will



have the opportunity of speaking to him.

Mr. Lazier had a previous engagement, but he felt that he could not add any intelligent opinions to the record of past contracts, unless he had full information, or the original information and completed contracts, and full knowledge of the sites, and would not care to testify in front of the Committee.

In regard to "principal officers"; I had no way of knowing who they were, nor how to get in touch with them, and consequently I did not communicate with them.

THE CHAIRMAN: Then, Mr. Secretary, as the result of your efforts, you have now contacted directly six of the persons named, and you expect a report on the seventh, and hope to have it during the course of the day, that is, Mr. Hurell.

MR. JOHNSON (Secretary): That is true.

THE CHAIRMAN: Would you mind telling the Committee what statements you made to these parties, so we will know just what you said.

MR. JOHNSON (Secretary): When I spoke to each man on the telephone, I explained to him that Mr. Oliver had requested that he be compelled to attend before this Committee, and it had been the





Committee's wish that such compulsion should not be permitted, but they should be given the opportunity to testify if they so desired.

I told each one that their expenses would be taken care of if they wished to come of their own accord, and their answers were as I have indicated.

THE CHAIRMAN: Did you ask them if they had any further information?

MR. JOHNSON (Secretary): Yes. I asked them if they had anything to put before the Committee, and they said "No".

MR. GORDON: I want to make it perfectly clear that I am here at the Chairman's request.

THE CHAIRMAN: Yes, Mr. Gordon. Perhaps I should have made that a little more clear.

I would just like to say a word or so this morning before we proceed.

The term "whitewash" was used rather indiscriminently and with abandonment yesterday afternoon by some -- not all -- of the Opposition members who withdrew from this Committee.

I cannot express too strongly my own indignation at any such suggestion as that being aimed at this Committee. I hope my record in public life has been such that if I ever reach the point where



I am, willingly or knowingly, guilty of "whitewashing" anything in the public interest, I will be thrown out, and not just permitted to retire.

Let me just say this with regard to the names of those people who have been requested to come before us -- and I do not know, when I am saying this, whether the action the members of the Opposition took the view they did due to indolence, inefficiency, or a complete incapacity to appreciate whatever is on the record, but whatever the reason is, the facts are very clear from the material which is already before this Committee.

I will only refer to a few of these things, because I do not want to labour this unnecessarily.

First of all, I want to refer to Exhibit 68. May I say, before proceeding, just a further word in regard to "whitewash"?

The secretariat, with the hearty co-operation of the hon. Attorney-General, has not only obtained copies of the evidence of all the hearings, both preliminary and trials, but has had extra copies made at some considerable expense to the public, so that every member of this Committee would have the opportunity long before he came to this meeting yesterday of perusing what had transpired at these trials, with



one exception, of course, and that is the trial which just ended in a sentence on Monday. Yet so efficient was the report of that particular trial, that the material was in the hands of the Secretary within hours of the end of the trial.

HON. MR. PORTER: The records of the preliminary hearings have been in the hands of the Committee for a long time.

THE CHAIRMAN: With this observation, let me refer now to Exhibit 28, at page 28, et seq., the evidence of Hayward W. Hurell, and with the permission of the Committee, I will read certain portions of it into the record.

MR. BECKETT, Q.C.: You might mention what that Exhibit is.

THE CHAIRMAN: Yes. It is Exhibit 68, and is the report of the preliminary hearing in the case of Regina vs. Tomlinson Brothers Limited, et al.

Mr. Hayward Hurell was called to the witness stand by Mr. Dubin, Crown Counsel, and was examined at some length, and I will read what I think are the relevant parts of this. I will not read it all.

He outlined, at the top of page 29, what he understood to be his duties as the Engineer Assistant. Then he goes on, after giving his duties, as follows:



"Q. And as an engineer's assistant, you would have certain duties to perform for the Department of Highways?

"A. That is right.

"Q. Yes. Now, apart from any instructions to the contrary, what would be the duties of an engineer's assistant once handed a certain contract to work with? Would you just describe generally for His Worship what you would do and how it would be done?

"A. He would receive a copy of the contract, the contracts from the divisional engineer and proceed to the job and take up residence at least five or five and a half to six days a week or more, if necessary. And he would look after the contract and in the interests of the Department of Highway see that the contractor stuck to the contract, built the road to specifications, to standards, and make any necessary changes in the field with the -- how will I say -- approval of the Department engineer at Toronto, and at the end of each month measure as close as he could by various means the amount of material moved on the job and the amount of acreage cleared, etc.

"Q. Yes.

"A. And at the end of each month make up a quantity for payment certificate and submit it to the







divisional engineer.

"Q. Yes.

"A. For his approval.

"Q. Yes. Well now, that payment certificate was based you say on measurements, quantity and the work being done that month as accurately as it could be done?

"A. As accurately as it could be.

"Q. And then the amount of monies would be determined how, then?

"A. By multiplying the quantities by unit price submitted by the contractor.

"Q. Yes. Well now, you have been in this employ for some time. My friend suggested earlier this question: are you able within some degree of accuracy to tell how much was done every month?

"A. Yes. It all depends how much stuff you have and how large a job you have as to how accurate you can be.

"Q. When you are talking about 'accurate' you are talking about exactness, I take it, are you?

"A. I don't think any measurements in engineering are exact but very, very close.

"Q. But they are close, is that right?

"A. They should be.



"Q. Yes. Well then, as the job progresses, would you keep engineering data from which a check could be made of your estimates?

"A. Yes.

"Q. And how would that be done? As the work progresses or --

"A. As the clearing of the contract progresses we would take original cross-sections."

Then I am eliminating some of the following questions, as not being really relevant. Then we come to another part which I will read, which is as follows:

"Q. Yes. Well, would these engineering records, if kept in a proper fashion, disclose the true nature and amount of work done?

"A. Yes, they should.

"Q. Yes. What do you mean 'they should'?

"A. If, as you say, if they were kept accurately.

"Q. Yes, if they are kept.

"A. They certainly should show the correct amount or very close to it.

"Q. Well now, may I direct your attention to what actually occurred on this contract 50-221 and 50-222, which is known as the Ripple Job.



"A. That is right.

"Q. Now, on that job were you the engineer's assistant?

"A. I was engineer's assistant.

"Q. And who were you taking instructions from?

"A. From Mr. Mills.

"Q. Yes. And did you operate as an engineer's assistant during the progress of that job?

"A. Yes, I did.

"Q. Yes. Well now, tell us briefly, when you started the job, did you supply the information for the monthly payment certificate to be made?

"A. Yes.

"Q. Yes. And do you recall the first month how that was done?

"A. The first month from the theoretical quantities and observing the amount of work done by the contractor I tried to get almost exactly or very close to what had been done.

"Q. Yes. Well, now, was there any change? Is that the way that you should have done?

"A. That is the way it should have been done.

"Q. Was there any change in the manner in which it was done?



"A. Yes, there was.

"Q. When was that?

"A. On the 29th of May, 1951, I received a call from Mr. Taylor, who said --

"Q. Mr. Taylor is whom?

"A. He is general superintendent.

"Q. Do you see him in the courtroom?

"A. Yes.

"Q. Would you point him out? Would Mr. Taylor stand up? "

Then he is asked to point him out, and finally, after a few questions, he was pointed out in the courtroom.

Then this goes on:

"Q. All right. Well now, you say you received a call from Mr. Taylor?

"A. That is right.

"Q. Just tell His Worship what transpired then.

"A. He said Mr. W. S. Tomlinson and Mr. Mills got together and decided that \$60,000 was to be the estimate for the month of May and the month of June to bring the job out of the red.

"Q. Yes.





"A. In other words, they had started out, incurred a certain amount of expense, I suppose, and they were in the red.

"Q. That is what Mr. Taylor told you?

"A. That is what Mr. Taylor told me.

"Q. What did you do as a result of that?

"A. I started to make up the estimates on that assumption but before I submitted it to Mr. Mills, I saw him and received his approval.

"Q. Yes. Did he confirm what Mr. Taylor had told you?

"A. Yes, he did.

"Q. Yes. And then did you make out the payment certificates in accordance with Mr. Taylor's request?

"A. No, not in -- in accordance with Mr. Mills' agreement.

"Q. Instructions?

"A. Instructions.

"Q. Which was the amount asked for by Mr. Taylor?

"A. Asked for."

Then there is some comment about a leading question.

Then he goes on:



"Q. And you arrived at a figure?

"A. That is right.

"Q. And what was that figure, the same figure that Mr. Taylor had mentioned to you?

"A. No. Mr. Mills for some reason upped it to sixty-six.

"Q. He upped it to sixty-six? I was in error and I'm sorry. Well then, to make up the payment certificate of \$66,000.00 how would that be done?

"A. I had to produce quantities.

"Q. Yes.

"A. Which when multiplied by the unit prices would amount to that amount.

"Q. Those quantities represented actual quantities moved on the job?

"A. No, they did not.

"Q. Were they more or less?

"A. They were more.

"Q. Yes. Now, the following payment certificate, what practice was used?

"A. Mr. Taylor saw me once a month, about approximately at the end of each month and gave me a figure which he said were his costs, and I produced the amount of money to cover those costs.



"Q. Why would you do that?

"A. On instructions of Mr. Mills.

"Q. Yes. Well now, did you continue to do that until the end of the contract?

"A. Well, no. The investigation started.

"Q. Yes. Until the investigation started was that the practice that was being used?

"A. Yes, it was.

"Q. And those payment certificates, did they represent more or less than the quantities actual or work performed by the contractor?

"A. They represented more.

"Q. More, yes. Well now, you have told us earlier you would keep notes and engineering data to show the accurate picture, is that right?

"A. Reasonably accurate.

"Q. Yes. Well now, what changes, if any, would have to be made to those data as a result of these payment certificates being made up this way

"A. Eventually before the final estimate was prepared and the documents all sent to Toronto and cross-sections, the cross-sections, in this case the cross-sections would have to be raised sufficiently, the original cross-sections, to produce that amount, that amount of material.



"Q. Yes. Had you commenced to do that before the investigation?

"A. I had commenced to do it.

"Q. Had you ever discussed that with any of the accused?

"A. No, I had not.

"Q. Did you ever discuss -- had you never discussed it with any of the accused?"

Then Mr. Martin said: "That answer is given.

My friend now puts a leading question."

Then follows some discussion. I am leaving out the questions between Counsel, and it goes on to say:

"Q. Why did you do that?

"A. Well, it was my practice usually to wait until the end of the job and I would know exactly how much I had to find. It made it much easier to cover. In this case it was a big job. I knew if I left it to the end there would be a terrific amount of work, take a long time after the job was all over. I thought I would start early in the job and try to finish as I went along

"Q. What was the result of that?

"A. I started out fairly early in the job and the job was over-running to such an extent I thought it was going to be very, very difficult to do





this. And I knew from a certain amount of experience that some of the prices of the other materials which they were to move later were better than rock prices and that possibly the job would not finally over-run as much as it appeared to be doing in the first instance. So I left it until later on.

"Q. Did you report to anyone as to what you were doing in that regard?

"A. I told Mr. Mills it was going to be very difficult. I didn't actually tell him.

"Q. What did you say to him?

"A. I just told him it was going to be very difficult to cover this job. That is the approximate words.

"Q. What did he say, if anything?

"A. He told me to -- 'You do the work, I'll do the worrying'."

Then on page 36, we find the following:

"Q. Well now, what were you doing to these cross-section rolls, what was happening?

"A. I was doing what is known as bumping. First I tried this first bump, this red line, and when I found out at the end of a mile I hadn't got



sufficient quantity, I tried another bump.

"Q. Along the line to do what?

"A. To bring the money, or bring the money up to the amount that was evidently going to be needed.

"Q. All right. And then if you had proceeded with the plan what would you have done then?

"A. I would have made up a new set of notes to cover the final bump and made a new roll of cross-sections with just the bumped and final notes on it, and thrown away the other one.

"Q. Thrown away the other. And that would then be sent to Toronto?

"A. That is right."

Then on pages 37 and 38 we find the following:

"Q. We will come to that. Following the investigation, did you have any discussion about any matters, payment or work done on these contracts, with any of the accused?

"A. Yes, I did.

"Q. With whom?

"A. Mr. Taylor and Mr. Tomlinson.

"Q. Yes. Perhaps we might deal with Mr. Tomlinson. Do you recall when, under what circumstances, you discussed the matter with him?



"A. I don't recall exactly when, no.

"Q. Well, I am not asking you the hour of the day or day of the week.

"A. Sometime after this thing broke.

"Q. Yes. This investigation commenced approximately when? Do you know the month?

"A. It was October, was it?

"Q. Of what year?

"A. Last year.

"Q. '53. Following that did you have a chat at all with Mr. Tomlinson?

"A. Yes, I did.

"Q. More than one or what?

"A. I believe just one.

"Q. Would you tell the nature of the conversation as best you can remember?

"A. Well, several of the boys working on various contracts had got together and decided to come out with the truth and tell what had been going on. And we decided to stick together and he was of the opinion that I shouldn't stick with the rest of the boys.

"Q. Well, did you report -- I'm sorry, you told us what your intentions were -- did you report that, was that in the discussion--I am not trying to



lead."

There is a little discussion between the Counsel again on that, and then it proceeds:

"Q. Did you discuss the question of the amount paid on these jobs?

"A. I don't know I did at that time or not.

"Q. Did you ever discuss it with him at any subsequent time?

"A. I don't believe so.

"Q. Pardon?

"A. Don't believe so.

"Q. What did you tell Mr. Tomlinson you were going to do? I don't quite understand.

"A. Told him I was going, I had agreed with the rest of the boys, we all agreed to stick together, to get back to the original cross-sections."

Now, in cross-examination by Mr. Martin, Counsel for Tomlinson Brothers and Taylor, Mr. Hurell was asked:

"Q. Is the practice that is prevalent, with which you are familiar, of making liberal allowances for quantities in the first few months to cover organization and expenses?

"A. That has been the practice.

"Q. That has been the practice? That is common practice?





"A. That is common practice."

Then, at page 43, we find the following:

"Q. Can't you now? For instance, what is the price of rock on these contracts?

"A. \$1.55 on 50-221 and 90 cents on 50-222.

"Q. Do you think rock in that area could be moved for that figure?

"A. Certainly not for 90 cents. I'll swear to that. More or less for the dollar fifty-five".

Then, after giving evidence as to the terrain -- this is still in cross-examination by Mr. Martin -- appears the following:

"Q. Yes. And the classification was done not by the engineer on the job but by the Chief Engineer and senior officials of the Department of Highways from Toronto?

"A. That is right."

That is the evidence of Mr. Hurell, in substance, at the preliminary hearing. He repeated it to some extent, I think, at the trial. It is on the record, and is available, and I do not think it is necessary to repeat it here.



Now, with regard to Patrick J. MacDonald, at the preliminary hearing. I am now reading from Exhibit 70, in the case of Regina vs. the Standard Paving Limited, et al -- Patrick Joseph MacDonald.

MR. BECKETT, Q.C.: It might be a good idea to give us the date of that.

MR. JOHNSON (Secretary): July 28th.

THE CHAIRMAN: The Secretary tells me it was July 28th.

This was the preliminary hearing of the Standard Paving Company, et al, and Patrick J. MacDonald, an employee of the Department of Highways for several years, testified:

He was asked:

"Q. In contract 20-73, did you ever receive any instructions to make out payment certificates in a way other than you ordinarily would do?

"A. Yes, I was.

"Q. And by whom?

"A. Mr. Mills.

"Q. What were those instructions?

"A. Well, it was a matter of additional money.

"Q. Yes, additional monies?

"A. Yes.



"Q. For what?

"A. For work that the contractor was in the hole over more or less, if he hadn't ---

"Q. I want you to tell us as best you can what Mr. Mills told you."

Incidentally, gentlemen, I will interrupt my reading for a moment to say that both Mr. Hurell and Mr. MacDonald requested the protection of the court with respect to their evidence.

Then it goes on:

"A. He told me the contract was down so much and for me to try and make it up.

"Q. And how would you do that?

"A. Well, up the cross-sections or classify.

"Q. First of all, how would you do that on these monthly payment certificates?

"A. We just estimated the amount we thought -- I thought would take it out, that was all.

"Q. When you were instructed, following Mr. Mills' instructions did you change your method of making out the quantities in the payment certificates?

"A. We added additional quantities.

"Q. And put those down as having been actually performed?"



"A. Yes.

"Q. Is that right? And then as a result of that, what would you have to do with your engineering data?

"A. Well, it would have to be raised.

"Q. Yes"

"A. Or re-classified.

"Q. Yes. Well, now, in contract 50-73 was that done?

"A. Yes.

"Q. And in whose engineering data were the engineering records falsified?

"A. Well in many cases we had no originals on the work and we just put in what was required.

"Q. To do what?

"A. Take care of the quantities.

"Q. And did that represent more or less than the work actually performed?

"A. More.

Then, in cross-examination by Mr. J. R.

Robinette, who appeared for the Standard Paving Limited and Birdsall, he was asked the following:

"Q. All right, to the east?

"A. McFarland had it."





Then they identified another contract on which he had been testifying. And it goes on:

"Q. And was the same procedure followed with reference to McFarland?

"A. Yes, to a certain extent.

"Q. So that is the case of McFarland's contract, apparently you made some changes to correct deficiencies in the contract?

"A. That's right."

May I ask if Mr. Cotnam is present?

MR. COTNAM: Yes, Mr. Chairman.

THE CHAIRMAN: Do we get this clear? It is my understanding that McFarland sub-let the contract to another firm?

MR. COTNAM: Yes, they sub-let it to Hockwell.

THE CHAIRMAN: And did Hockwell actually do the work?

MR. COTNAM: Yes, Hockwell actually did the work.

THE CHAIRMAN: Then I will go on with the reading:

"Q. So that in the case of McFarland's contract, apparently you made some changes to correct deficiencies in the contract?



"A. That is right.

"Q. And that is the McFarland Company of  
Picton, is it?

"A. Yes.

"Q. And what is the next contract to the east?

"A. There wasn't any.

"Q. What other section was there?

"A. You mean under my jurisdiction?

"Q. Yes.

"A. No, I had those two.

"Q. Just the two?

"A. The two, 28 miles.

"Q. And how long were you on those two jobs?

"A. From '50, June '50, until October '53, I  
guess."

Then Mr. Dubin further examined him:

"Q. On the adjacent contract you told my friend --  
I am repeating that, Mr. Robinette -- that  
certain falsifications were made on the  
document, is that right?

"A. That is right.

"Q. And I am asking you how those changes compare  
with the ones made on this one, were these



more or less than the ones made on the adjacent contract?

"A. They were less.

"Q. Which were?

"A. On the other job."

Then, at the trial of the Standard Paving Company, Patrick MacDonald appeared again, and his evidence appears at pages 48 and following. He is the engineer assistant, and if anybody wants to read it in detail, it is there.

I do not think there is anything additional in the evidence at the trial, to what I read a moment ago from the evidence at the preliminary hearing.

However, it is on record and is available for anyone who wants to examine it.

Now, with reference to Patterson. Patterson as you know, was accused, and at the preliminary hearing -- Exhibit 69 -- in the case of Regina vs. Bergman, et al --

Before reading it, I want to make it clear that the evidence was clearly a prima facie, and it should not be interpreted otherwise. Perhaps our friends of the press will withhold saying anything about it, and then we can decide later if anything should be said.



It was never connected up actually. I will read what it does say at the preliminary hearing, with regard to Patterson. It is as follows:

Near the bottom of page 133 of the evidence of one Drennan, we find the following:

"Q. I am producing what purports to be a letter from Mr. J. A. West to Mr. Water Bergmann dated September 17th, 1951. Did you seize this document?

"A. That is right, sir.

"Q. From the premises of the Bergmann Construction Company Limited?

"A. Right, sir.

"Q. And that is a letter which reads --

"MR. MARTIN: That, of course, is not evidence against Mr. Walter Bergmann personally.

"MR. DUBIN: For the purpose of the preliminary, my friend -- ".

And then there is another little argument between counsel, and Mr. Dubin reads the letter as follows:

"I was at Pickerel on Friday and Saturday and everything is going very well except that the cuts north and south of the gorge are being mucked





out satisfactorily but the hole isn't filling up very fast. I saw Don in Huntsville Saturday night and gave him the envelope you left. He is going into camp this week and will straighten the estimate out with Sam. Sam has been on holidays for a week and I did not see him.

Pete is officially Chief Engineer with Bill Clarke as Assistant Chief. I saw Bill on Thursday. He had Ed Kelly's letter and is going to discuss it with Fred Francis this week, but I told him not to say anything further to Pete until you get back and had a chance to see Pete yourself.

I am going to Savand tonight and will be back about the first of next week."

That is the evidence there.

I think the connecting part appears at page 140 where Mr. William Dryer was called and sworn. His evidence is as follows:

"Q. Now, Mr. Dreyer, you are an accountant with what bank?" --

This is again a Crown Witness. It goes on:

QA. Dominion Bank, Huntsville.

"Q. Dominion Bank, Huntsville. Do you know Mr. Donald Patterson?



"A. I do.

"Q. And has he an account with your bank?

"A. He has.

"Q. Would you produce the record of his current account with your bank, please. And have you an entry for September 18th, 1951?"

It goes on:

"A. I have.

"Q. And have you his deposit slip on that occasion?

"A. Deposit slip, yes.

"Q. And what was deposited on September 18th, 1951?

"A. Ten twenties and an item for \$150.

"Q. And does the deposit slip show the nature of the denominations? Ten \$20's?

"A. Ten twenties."

As I say, gentlemen -- and I am speaking to the press particularly at the moment -- that evidence was given at the preliminary. There was never any further evidence. It is a prima facie statement, and I do not know how fair it is to Mr. Patterson to comment on it. I will leave it to your own good judgments.



Mr. Patterson, however, did plead guilty to the charge of fraud, and I think I will rely on what Counsel for the Committee has done on this -- I think at the trial there was no statement made in any way by way of mitigation on the part of the Crown that Patterson had not received anything.

MR. MACTAVISH, Q.C.: There was no comment.

THE CHAIRMAN: To clear that, in the case of Mills there was a clear statement at the trial by Crown Counsel that there was no evidence to show that Mills had profited personally. I will read that, because I think it should be put on the record.

This is Mr. Justice Denis' statement at the trial. Before passing sentence, Mr. Justice Denis was informed by Crown Counsel Dubin, as follows:

"In fairness to the general picture, I may state frankly to Your Lordship that we have no evidence or proof that Tomlinson Brothers Limited, nor anybody in that organization, paid any money to Mills.

"HIS LORDSHIP: Did you make a thorough search of the matter?

"MR. DUBIN: Yes, My Lord. Under a search warrant the records of the accused Company and certain individuals were seized, and I examined carefully the report made by a firm of independent auditors



and I cannot say to Your Lordship, in fairness, that we have proof of any payments by Tomlinson Brothers Limited to Mr. Mills, which may support the representations made to Your Lordship by Mr. Robinette that Mills was perhaps acting under the direction of the deceased Chief Engineer."

That deals with the evidence of MacDonald, Hurell, Mills and Patterson.

Mr. Bredin did not give evidence. If there is any reason why he should be called, I think we should advocate issuing a warrant and have him come, but at this moment -- and on his own statement to the Secretary, as I understand it -- he says he has nothing to present to the Committee.

I think in fairness to Mr. Bredin -- and I am again quoting from information given to Mr. Cotnam -- he always denied he did anything wrong or had any connection with any wrong doing.

Am I right, Mr. Cotnam?

MR. COTNAM: Yes. Bredin did admit that he burned some original records. But further than that, he insisted he knew nothing of what was going on in connection with Bergman and Company.





BY THE CHAIRMAN:

Q. Who would have more information of the burning of the records? Can you give us any more information, Mr. Cotnam?

. I do not want to close out anything which might be irrelevant.

MR. COTNAM: I do not know how I can enlighten you further. He said he burned them. He burned them when he was alone, and told Mr. Willis, his superior, and said "They were not too happy about that", but it was done.

THE CHAIRMAN: Can you identify -

MR. COTNAM: In relation to the Bergmann Company contract, upon which we were in Court?

THE CHAIRMAN: I think those were all the witnesses which might be termed "witnesses" who were connected with the trials. I think I have reviewed that position.

I refer the members of the Committee to all these exhibits for any further information which might be considered to be of help in our work.

I must come back again to the term "whitewash". It seems to me that the members of the Opposition, instead of accusing other members of this Committee of "whitewashing" anything, or anybody, did pretty well by their own actions, make some attempt to "whitewash" their own complete inefficiency, and lack of comprehension of their



duties in a democratic society when placed on a Committee.

Little did I think I would be able to use this red book (indicating) as an authority so soon, but I am now able to do it.

On page 13 of Mr. MacTavish's book -

HON. MR. PORTER: A live author of a text book is not an authority. He has to die first.

THE CHAIRMAN: Do not spoil my story, Mr. Attc rey-General.

On page 13 we find the following:

" A member is bound to serve on any select committee to which he is appointed and if he refuses to attend without having been excused he may be adjudged guilty of contempt by the House and penalized. Subrule b of Rule 102 of the House states in part that the names of the members attending each committee shall be entered in the minutes by the clerk (now usually designated "secretary") of the committee. Thus each member's attendance is made a matter of record."

Those gentlemen who strode out so gallantly withdrew, and here we are to-day. I do not know to what extent the Rule may be made to apply if anybody wanted to make it "stick", but I would say in all seriousness that I, as Chairman of this Committee, who is called upon to sign the authorities for payments of members,



for services and expenses in relation to the Committee, that I should very seriously consider whether I shall sign any warrants in relation to this meeting on the part of any of the people who so purposely and deliberately absented themselves from a meeting of the Committee.

With that, I think we may continue our proceedings.

MR. BECKETT, Q.C.: Before you do, Mr. Chairman, in connection with these witnesses, for instance, Mr. Hurell: for instance, if I remember correctly, the proceedings were in July, and we all received them in September, which gave us a great deal of time.

In connection with Patterson; that was in July also, and we received that in September, 1954.

The Patterson trial was in October, and we received that in 1954.

So, the members have had plenty of opportunity to have read just what you have read here to-day. To bring these chaps back, I think would be unfair. They were not only witnesses, they were accused.

HON. MR. PORTER: And convicted.

MR. BECKETT, Q.C.: Any member of the Legislature who wants to re-try anybody who has been convicted, I think should hang his head in shame.

HON. MR. PORTER: They were convicted, and paid the penalty.



HON . MR. MAPLEDORAM: That is not British justice.

MR. BECKETT, Q.C.: Not at all.. That is the way I feel about it.

THE CHAIRMAN: I hope that point is appreciated by members of this Committee sitting here, that there are certain personal matters, and having, as you might say, been put through the -

MR. HERBERT: The wringer?

THE CHAIRMAN: Yes, the "wringer", if you wish, Mr. Herbert - if anybody wants to bring before the Committ which they think will be of value to the Committee, they have an open invitation to do that right up to the time this Committee completes its work.

I see that Mr. Gordon has kindly consented to come in this morning. I wonder if I may ask him to just come forward again.

D U N G A N   G O R D O N ,

the witness previously heard, and now recalled, but not be re-sworn continues his testimony as follows:

BY THE CHAIRMAN:

Q. Mr. Gordon, you brought in your report?

A. Yes.

Q. Have you anything to add just at this time, which you might wish to bring to the attention of the Committee





beyond what is already in the record?

A. No, I have not, Mr. Chairman.

Q. The Leader of the Opposition said he wanted you here, because he thought a number of your findings were based on facts which you had ascertained in the course of your investigation, but which you did not feel free to disclose while the trials were pending.

Are there any facts in relation to your report which this Committee should know, now that the trials are out of the way, and you are free to talk.

A. I think if we were re-writing our report to-day, we would write substantially the same report as we wrote in May.

Q. You have heard the evidence during the trials; you have probably been following these trials?

A. Not too closely.

Q. There has been evidence such as you heard read this morning, given by witnesses who were Crown witnesses, and who, in some cases, received the protection of the Court, and that sort of thing, in regard to the falsification of records.

Is there anything more along this line which we should know, and which we do not know, but which you do?

A. Mr. Chairman, I think the only way I can answer that question is by saying that we wrote a report, and as



far as we were concerned, we have covered the organization and administration of the Department.

I do not think we would make any change in it of any substantial nature, if we were submitting it again at the present time.

The provincial auditor has reported to you on the investigation end, and I am sure he has told you everything that he thinks the Committee would wish to know.

Q. Everything has been an open book to you. This Committee has been set up for an investigation. Is there anything we should follow up to your knowledge which we have not already done, or which has ~~not been brought to~~ our attention, in the reports by Mr. Cotnam and yourself? If there is, what are they?

A. I think the answer must be that there is none.

Q. I am anxious to do all I can, but I am not interested in a fishing expedition.

A. No.

BY HON. MR. MAPLEDORAM:

Q. Are you satisfied with the reorganization of the Highways Department, as far as it has gone up to the present, following your recommendations?

A. I think the reorganization is going extremely well. It is a big job. I think it will take time to complete the reorganizing.



I think the people in the Department, from the contacts I had with them, are extremely keen to get the reorganization carried out to improve the procedure and the administration, and are making as good progress as you could expect anybody to make in a job as big as that one.

You just cannot do these things overnight.

THE CHAIRMAN: Are there any other questions to ask of Mr. Gordon? Has anyone any question he would like to ask in regard to his report? This will probably be the last opportunity we will have to do that.  
(No response).

If not, we thank you very much for coming, Mr. Gordon.

--- The witness retired.

- - - - -

MR. COLLINGS: What about Mr. Lazier?

MR. JOHNSON (Secretary): I contacted Mr. Lazier last night and again this morning. He had a previous engagement for to-day, and he felt he could not add any information unless he had full information regarding the contracts, and the completed contracts, and full knowledge of the sites with which the contracts dealt, and he would not care to testify at this time.



HON. MR. MAPLEDORAM: Is that not contradicting the remark of the leader of the Opposition when he said Mr. Lazier could enlighten us as to the contracts?

HON. MR. PORTER: I think what the leader of the Opposition had in mind was whether or not Mr. Lazier could say whether bids were too low.

From what we have been told by our secretary, apparently he does not consider himself in a position to give any helpful opinion, without a thorough study of the ground.

MR. JOHNSON (Secretary): That is what he told me.

HON. MR. PORTER: Is there any need for calling him? We have had a great deal of evidence about these bids, and there have been differences of opinion expressed as to whether they were too low, or too high. We have also had evidence that the specifications were changed, so that the work done was different from that contemplated in the original contracts.

I do not know that it is of any use to us now to attempt to get opinions from people who are remote from the actual work of the Highways Department road-building programme, as to what they may think as to the prices which were fixed, and the bids which were put in.

I cannot see, for the life of me, how that would help us at all.





MR. JANES: It will, at best, be only one man's opinion.

HON. MR. PORTER: That is right, and we have had opinion and different hypotheses in some cases.

It seems to me it gets down to this; go go along the road in the country, and you see a farm on one side of the road, and you see another farm on the other side of the road, and you see the same quality of land, and one farm looks run down, and on the other, the farmer is making a good living - of course they never admit they are making too good a living - but he is getting along pretty well.

They both sell milk and hay, and whatever they do sell on a farm at the same price, yet one seems to make a living, and the other does not.

How can you say whether one man is not getting a sufficiently high price -

MR. DENT: Never having been able to make a living, I cannot tell you.

HON. MR. PORTER: I hate to question the integrity of the hon. member of this Committee, but I have some difficulty in following that.

THE CHAIRMAN: We have filed as an exhibit certain information obtained from California, and the Committee members may spend some time when discussing our report,



concerning some of the facts stated in that.

The index as to cost trends took 1940 as the 100-mark. The index as to costs has been going up, and the last period in 1952 - the last period in the report - it was up to 242.6, as against the 1940, 100.

That is additional information on the costs, which is already before the Committee. It is for the Committee to decide how far they want to go with that sort of evidence.

MR. DENT: Was not Mr. Miller of the opinion that costs were going down?

MR. JAMES: Going back to the question of farms. We know that many, many contractors become very wealthy, and in all cases they were the lowest tenderers, so it must be a question of efficiency both on the part of the farmers and on the part of the contractors.

An efficient contractor, at these prices, is making money.

HON. MR. PORTER: You can apply that, but possibly one man can make a living with the prices he is getting, while another man, with the same prices, cannot make a living.

THE CHAIRMAN: Now, Mr. Grant is here. We have a little more business to do this morning, and we are looking forward to touring headquarters pretty well this afternoon.



Have you a time schedule for us?

MR. GRANT: That will be entirely up to yourselves as to when you would like to start, and as to how much time you would like to spend.

THE CHAIRMAN: If we started early enough, could you take us through the headquarters of this area, and then take us out to see the expansion throughout the city?

MR. GRANT: That will take the whole afternoon to do properly, and perhaps well into the evening.

THE CHAIRMAN: You would rather take us in two bites?

MR. GRANT: Unless you want to go through head office first. There will be considerable travelling to do to get through it.

THE CHAIRMAN: Well, it is now ten minutes after 11:00. I think by 12:00 o'clock we could finish up what I have in mind doing here.

Assuming we would be free here at 12:00 o'clock, we could follow any time schedule you want to work out. Will you see what you can do? If it is possible to clear this this afternoon, that will be fine, but we do not want to rush you, and if we have to we can break it in two.

Perhaps you can tell us before we adjourn.



MR. GRANT: How many will there be?

THE CHAIRMAN: I hope all the members will come on that tour. I think it is an important part of our work to see the actual set-up.

Of course, any members of the press who wish to accompany us will be welcome. I think I can take it that all the members of the press here will go with us.

Is there any further evidence by way of oral testimony at this point? (No response).

Well, we will not close this off at the moment. We may resume it later, and I think at this time we might take the next half hour to deal with the sub-Committee's recommendations and report.

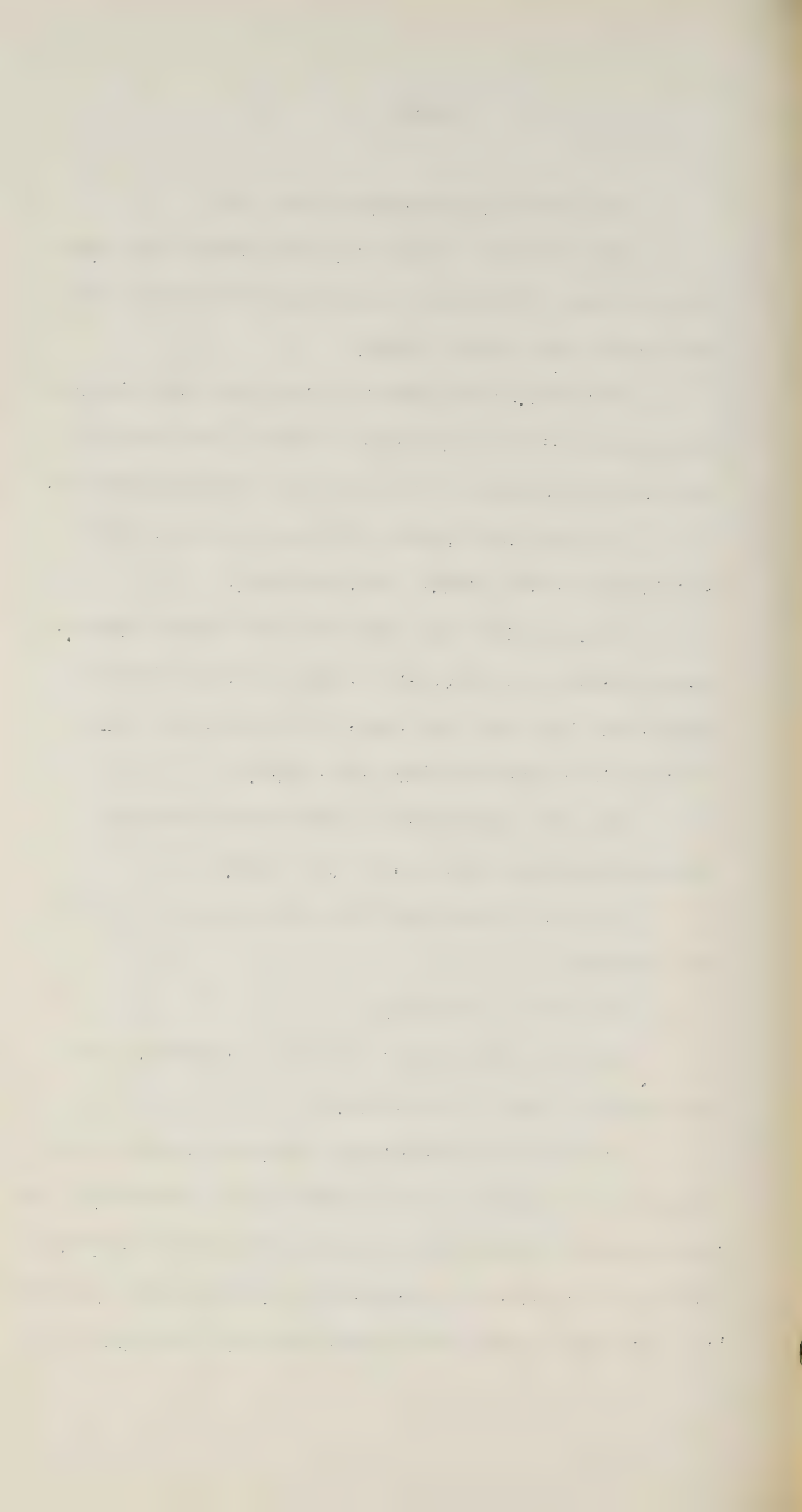
Hon. Mr. Mapledoram: as Chairman of the sub-Committee, perhaps will handle the report.

HON. MR. MAPLEDORAM: Do you want me to read it, Mr. Chairman.

MR. JAMES: Certainly.

HON. MR. MAPLEDORAM: I think I might give you an outline of how it came about.

Actually the information contained in this sub-Committee's report is not relevant to the Committee. In other words, we felt that in going through the northern part of the province, everywhere we went we were approached by municipal people and others interested in regard to





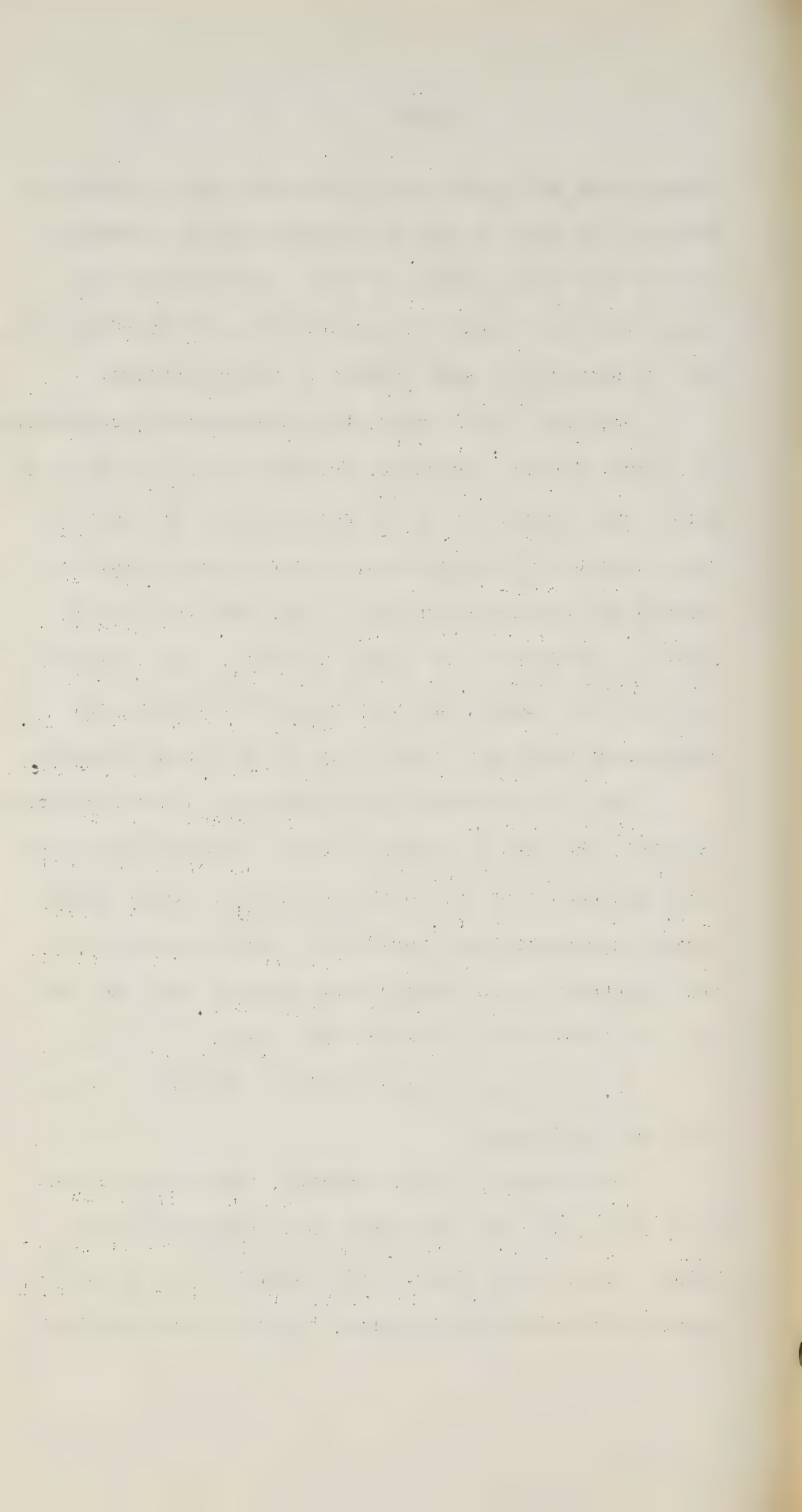
things which were going on in different parts of Northern Ontario, and while we had no jurisdiction as a Committee to deal with these things, we felt, in fairness to the people who took the time to appear before the Sub-Committee, that we should have some answers to their problems.

So, with that in mind, the Sub-Committee, consisting of Messrs. Herbert, Grummett, Wren and myself, was asked to gather any information in the north-eastern and north-western parts of the province, we not having travelled through the north-eastern part of the province, and we wanted to be fair to the people up there. We communicated with the people, and they replied by letters and resolutions which were sent in by the different Councils.

Then, as Chairman of the Committee, I was instructed to submit the list of requests to the Highways Department which had been sent in, so that each one of those people making representations, would have a direct answer from the Department as to whether they could or could not give them the information for which they asked.

In this report (indicating) are some of the things which we considered.

For instance, as you remember, when we got off at Rainy River, we were approached about building a new bridge across Rainy River. This Committee had no jurisdiction over anything like that, but we did mention that



to the Highways Department, and also a report went to the hon. Premier (Mr. Frost), and I think the greater part of the items which were discussed with the Committee have been answered by the Highways Department. In other words, some if not all of these places received answers to the questions they had asked. Of course, those were things over which the Sub-Committee had no jurisdiction.

I think as far as the report is concerned, it is complete, and the questions asked are noted.

This had no bearing on the work of the actual Committee, but just as a courtesy which we wanted to extend to the people who took the time out to appear before us, asking certain questions, we thought we should give them that opportunity.

It is complete, as far as I know, and I am sorry that Mr. Grummett and Mr. Wren, who were on the committee, are not here, as they might want to add something. We had copies of the report sent out to each member of the Sub-Committee, but to the best of my knowledge they never contacted me with regard to it. In other words, they must be satisfied with it, because no question was raised.

MR. COLLINGS: Silence gives consent, anyway.

HON. MR. MAPLEDORAM: A great deal of consideration was given to this by the Department. For instance, in



regard to snow ploughing. They are going ahead and working that out. I have not found any place in north-western Ontario where they are not doing something in regard to it.

THE CHAIRMAN: It is not recommendations of what is to be done, but mentioning what has been done?

HON. MR. MAPLEDORAM: That is right, and it is something over which the main Committee had no jurisdiction. It was just a courtesy extended on behalf of the Committee to the public in different sections of the province.

THE CHAIRMAN: This might be marked "Appendix 'B'", and be included in our records.

--- Whereupon Appendix "B" was filed, made a part of the Committee's records, and is in words and figures as follows, to wit: -

(Page 2502 follows)



SCHEDULE "B".

Report of Subcommittee

"We have the honour to submit herewith the report of the subcommittee of the Select Committee of the Legislature appointed to study and investigate the Department of Highways of the Province of Ontario.

"On Wednesday, June 30th, 1954, on motion of Mr. Wm. H. Collings, seconded by Mr. Chas. E. Janes, a subcommittee was appointed to bring to the attention of the proper officials of the Department of Highways the various briefs submitted to the Select Committee during its tours of inspection in Northern and North-western Ontario; and consisted of Messrs. Mapledoram, Herbert, Wren and Grummett (See Proceedings, at p.2065). The Secretary was instructed to forward to the proper officials the briefs submitted to the Select Committee during the inspection tours taken by it.

"During the early part of July, 1954, copies of all briefs received by the Select Committee were forwarded to the Prime Minister, the Honourable Mr. Leslie M. Frost, and to the Minister of Highways, the Honourable Mr. George H. Doucett. Other officials in various Departments received certain of the briefs, the subject matter of which were of concern to them. At this time, also, copies of resolutions passed by the Select Committee were distributed for consideration by affected Departments and officials.

"At the request of the members of the subcommittee,





"meetings were held on July 29th and 30th in the offices of the Minister of Lands and Forests, the Honourable Mr. Clare Mapledoram, during which discussions were held and determinations arrived at.

"It was unanimously resolved that the Honourable Mr. Mapledoram would act as chairman for the meetings of the subcommittee.

"Mr. Mapledoram briefly outlined the work of the subcommittee and of the progress made towards acquiring the information it had been requested to obtain.

"Mr. Wren presented a letter outlining several representations that he desired to bring to the attention of the subcommittee. The various points were dealt with during discussions that followed.

"It was resolved that Messrs. Herbert and Grummett be delegated to receive briefs from municipalities who had not met with the Select Committee during the various tours taken by it. These briefs were received and forwarded to the chairman of the subcommittee who submitted them to the proper officials of the Department of Highways. The results are set out in this report under the heading "New Business."

"For the purpose of this report, matters dealt with at the meetings and their disposition are set out under headings for clarity.



Briefs

"General

- (a) Snowploughing in Northern and Northwestern Ontario. -

This point was raised in many briefs and is dealt with here to avoid repetition. It is now common knowledge throughout the Province that the problem no longer exists with the announcement by the government that snowploughing is to be continued as in the past. This decision satisfactorily answers the many requests made that snowploughing be continued.

- (b) Atikokan-Fort Frances Highway. - This request is also dealt with generally in order to avoid repetition in replying to the many briefs containing the point. It was pointed out, and concurred in by the subcommittee, that this major project could not be undertaken in the near future. The completion of Trans-Canada Highway No. 17 and the great need for Secondary Roads in that section of the Province are more pressing and must be the prime consideration for the immediate future. However, the desire for this road is recognized and can be dealt with when times and conditions are more suitable for undertaking the project.



"Sudbury, Ont.

"The representation made dealt with the question of the payment of subsidies by the Province of municipalities for road maintenance. The request involved the earlier payment of interim sums to allow municipalities to determine their mill-rate at a more advanced date. This request was submitted to the Provincial Statistician and the Minister of Highways. A letter, dated June 21st, 1954, from the Minister of Highways to the Secretary of the Committee (See pp.1799-1801 of the Proceedings) sets out the position of the Department on this matter.

"Massey, Ont.

- (a) The alleged inconsistent administration of regulations pertaining to red and flashing signs on the King's Highway was dealt with by resolution of the Select Committee to bring the matter more properly to the attention of the Highway Safety Committee for their consideration. The pertinent material has been forwarded to that committee for disposition
- (b) Rental of Department of Highways snow-removal and grading equipment when "pool equipment" is not available. - (This was to be looked into to see if unity could be obtained and if equal rental-rates could be charged.)



Rainy River, Ont.

- (a) Request for International Bridge between Baudette and Rainy River. - This brief is far beyond the scope of the work of this Committee. It involves international agreement between the United States, Canada and Ontario. Attention was drawn to the brief by the subcommittee to the Department of Highways for their consideration.
- (b) Re-grading, straightening and gravelling the Sleeman-Morson Road. - The opinion was expressed that this was not a provincial matter and should be dealt with as a local issue by the member for the area.
- (c) The questions of snowploughing and the Atikokan-Fort Frances Highway were also contained in this brief.

Fort Frances, Ont.

- (a) The request for refund of tax on gasoline used in town-owned and operated equipment was considered and it was determined that it was not feasible from a policy point of view.
- (b) The request for a road from Atikokan to Fort Frances was contained in this brief.





"Red Lake, Ont.

- (a) Request that the Department of Highways take over and maintain the highway from Red Lake to Madsen and Starratt-Olson Mines. - This was brought to the attention of the Department of Highways who are at present studying the problem of maintenance.
- (b) Black-top surfacing of Secondary Road from Red Lake to Airport.- This request was considered and it was found that the Department has been unable to legally determine what right it has to enter this road as the surveys branch has been unable to establish ownership.
- (c) Parking Regulations. - The request for authorization to enforce parking restrictions was set aside because authority cannot be granted until Red Lake incorporates itself as a municipality through existing channels.

"Pickle Crowe-Central Patricia Area, Ont.

The request for completion and maintenance of the Pickle Lake-Savant Lake Road has been granted, with work by the Department of Highways being done at the present time.



"Atikokan, Ont.

- (a) The request for an underpass on Highway No.120 in the township is being considered by the Department of Highways.
- (b) The request for a road from Atikokan to Fort Frances was contained in this brief.

"Marathon, Ont.

The request for information respecting the building of a tote-road into Manitouwadge Lake was raised. Tenders have been called and contracts awarded for the building of this road. Work is at present progressing.

"Nipigon, Ont.

The request for improving and building a direct road to Red Rock from Nipigon was determined as being a local problem that must be dealt with by the concerned municipalities.

"Fort William, Ont.

- (a) Neebing requested continuance of snowploughing.
- (b) Thunder Bay District Municipal League brief was considered and determined to be for the most part local issues which can be dealt with by the member for that region. Snowploughing has been continued. The several requests however are under consideration by the Department of Highways.
- (c) Nakina Outlet Road. - The request for a



"permit to allow completion of the road is being carefully considered by the Department of Highways. Careful study must be made as the decision made may affect similar roads.

- (d) Red Rock's request for maintenance of the 5-mile road to Highway No. 17 is being studied on the basis of a recommendation by the Municipal Engineer, Mr. Earl Smith. It is felt that the Department of Highways might undertake the project in two steps - gravel one year and black-top the next.
- (e) Alderman Young's request for consideration of a by-pass for the diversion of commercial vehicles past Fort William and Port Arthur was determined to be a local issue that should be dealt with on a local basis.
- (f) Mr. R. J. Prettie's representations regarding several requests for certain works in the district were dealt with at the meeting in Fort William, where a statement by Mr. E. A. Cash, Division Engineer, showed that most, if not all, were awarded and in hand.
- (g) Mr. M. Vibert's request for consideration to the problem of claiming damages against contractors who leave local roads in a damaged condition after completion of contracts was presented to the Department of Highways, who are considering the problem at present.



(h) Fort William Chamber of Commerce:

- (i) The contracts for the completion of the highway from Shebandowan to Highway No.17 are to be let this fall.
- (ii) Atikokan-Fort Frances Highway request.
- (iii) Contracts for clearing have been let as a step towards the requested completion of the road from Marathon to White River.
- (iv) The extension and maintenance of the road to Mount McKay is a joint problem for the Federal government and the Department of Indian Affairs and is beyond the jurisdiction of provincial authority.

#### Resolutions

Resolutions adopted by the Select Committee were submitted to the Department of Highways and a request made by Mr. A. Kelso Roberts that information regarding those of concern to the Department be forwarded to the subcommittee. In a letter to the Secretary, dated July 28th, 1954, and signed by Mr. Geo. Clark for Mr. M. A. Elson, Deputy Minister of Highways, the following information was set out for certain resolutions and parts of resolutions:

Resolved That

- (1) the Attorney-General be requested to retain





counsel for the purpose of studying and advising upon the present contract bonding practices and forms of the Department of Highways, and that in so doing such counsel be requested to have regard to the corresponding practices and forms in England, New York State, North Dakota, representative municipalities in Ontario and such other jurisdictions as he deems fit;

- (2) the Minister of Highways be requested to instruct the appropriate officials of his Department to give such assistance as possible to the counsel so retained.

"Answer:

- (1) Department officials have reviewed the New York and North Dakota Specifications and General Agreement and in particular, their bonding procedure. The officials will be glad to discuss this matter with the Attorney-General upon request.
- (2) The officials of this Department are ready to give any assistance necessary to the counsel retained.

"Resolved That

this Committee recommend that tenders should not be called by the Department of Highways until preliminary engineering has been completed,



"properties purchased and the Department is satisfied with the state of readiness of the plans and the accuracy of its estimates.

"Answer:

Careful attention is being given to this resolution and it is intended that the Department will have obtained this very desirable preparation for next year's work. Present efforts of the Department towards this end have already effected a vast improvement.

"Resolved That

this Committee approves in general principle the adoption by the Department of Highways of a system of pre-qualification of contractors and that study should be given by the Department of methods to bring such a system into existence.

"Answer:

Department officials have been studying this proposal and will make a recommendation in the very near future.

"Resolved That

this Committee recommends that tenders for contracts submitted to the Department of Highways should be opened in public and full information as to the low bid made available to all bidders.



"Answer:

Many meetings have been held in connection with this suggestion and a procedure is in process of readiness for approval. As to the second part of this resolution, contractors are now being advised, through the Press, as to the low bidders. Also, tenders are being opened in the presence of the following officials: Minister, Deputy Minister, Chief Engineer, Services Manager, Tender Secretary, Contract Controls Engineer and Financial Comptroller.

"Resolved That

this Committee approves the recent reorganization of the Department of Highways.

"Answer:

Reorganization of the Department is 80% complete and it is intended that complete reorganization will be effected in a short time.

"Resolved That

the Committee approves in principle that a minimum establishment of permanent employees should be agreed to for head office and division staffs in the Department of Highways and such minimum establishment should be filled by permanent civil servants with no restriction as to occupational classification being imposed.



"Answer:

This matter is being studied at the present time.

"Resolved That

this Committee recommends that study be given by the Department of Highways to the relationship between long-term planning for the development of the highway system in Ontario and the system of "sufficiency rating" as used in North Dakota, with the view of adopting the best principles of each.

"Answer:

With the reorganization of the Department, a Director of Planning has been appointed and he is working towards this end. He has already studied the technical procedure necessary for a sufficiency rating.

"Resolved That

the Committee inquire from the Department of Highways if consideration has been given to building a tote-road into Manitouwadge Lake as recommended by a mining committee.

"Answer:

This matter has not been finalized but will be gone into.

"Resolved That

this Committee bring to the attention of the proper highway officials the request for a





"permit to continue construction of the road known as the "Nakina Outlet Road" by the citizens of Nakina and that this Committee supports unanimously the request as set out in the Nakina Brief.

"Answer:

In connection with the Nakina Outlet Road, this is under consideration but it should be pointed out that the decision made on this road may affect similar roads, and careful study of the whole position should be made.

"Resolved That

this Committee recommends that the issuing of public commercial vehicle licences for vehicles used in highway construction be handled locally, rather than in Toronto, in order to relieve undue hardship to truck drivers in the various local municipalities.

"Answer:

This matter has yet to be taken up with the proper officials but it is under consideration.

"Resolved That

this Committee agrees to bring to the attention of the proper officials the urging by residents of the Pickle Crowe-Central Patricia Area that the road between Pickle Lake and Savant Lake be completed and maintained by



"the Department of Highways for use in lumbering operations, tourist development, transportation of fish from Pickle Lake, as well as for mining purposes.

"Answer:

Orders have been issued to put the Pickle Crowe-Savant Lake Road into a safe, passable condition, to be maintained by the Department until further notice. We anticipate work will commence the week of August 1st.

#### New Business

"Representations received pursuant to a resolution made at the meeting were sent to the Department of Highways for attention. In a letter to the Honourable Mr. Mapledoram, dated November 17th, 1954, from Mr. L. A. Elson, Deputy Minister of Highways, the following information was set out:

1. Interim Subsidy Payments Requested by the Town of Iroquois Falls

"Interim payments are made on 31st August rather than 30th September in order to split the main construction period. Ordinarily, June, July and August are the first three months in which any amount of work can be done and this Department passes an interim subsidy for the work completed in that time, plus any work done on maintenance - winter costs - from January



"until the end of August. Under normal conditions then, the subsidy covers more than half of the year's expenditure. Requests have been made both to pay this subsidy earlier in the season and to pay more numerous interim subsidies, but it is felt that the present arrangement is the most satisfactory to the majority of the municipalities.

2. Request for a 30 mile Speed Limit on Highway #67 in the Vicinity of South Porcupine

"This is a King's Highway and the speed limit is controlled by the Highway Traffic Act. Numerous surveys have been made to determine whether this is a built-up area or not and it has been found that this does not comply with the definition of a built-up area under the Highway Traffic Act and thus cannot be considered as a 30 mile zone. As the area becomes more built up other surveys will be made and, at such time as this does comply with the Highway Traffic Act, it will be designated as a reduced speed limit zone.

3. Request to Pave Road between Englehart and Charlton

"This past summer, eight miles of this road have been surfaced with a mulch pavement. It is the intention of the Department to continue this work until the complete road has been surfaced. More work will be done next summer.



4. Request for \$10,000 - Township of Dack

"The Township of Dack moved a bridge from one Concession Road to another and approximately one mile of this road was designated as a development road to prepare the approaches for this bridge. All of the work on the original Agreement was completed. If the Township requests more work being done to finish the road it should either be on a new Development Road Agreement or under the normal subsidy paid to the Township on any work they do.

5. Requests to Improve the Roads between Larder Lake and Englishart

"This chain of roads has been investigated and it is felt that the benefits do not warrant the expenditure at the present time. It might be considered under the newly formed Committee on Mine Access Roads.

6. Work on Highway #11 Cochrane to Hearst

(a) Reconstruction of 16 miles between Cochrane and Smooth Rock Falls in the Driftwood Area

When the present contracts east and west of this area are complete, new contracts will be let to finish the re-building of this section of Highway #11. Surveys have been made and estimates are being prepared at the present time.

(b) Kattagami River Bridge at Smooth Rock Falls

Surveys have been made and study is





being given at the present time to the location of the approaches to a bridge over the Mattagami River at Smooth Rock Falls. When the exact location is determined, soil and foundation investigations will be made. Since there is a possibility that this will be one of the longest bridges in Ontario, a considerable amount of detailed study must be made, but work has been started and the bridge will be constructed as soon as these studies have been completed and the design made.

(c) Reconstruction - Kapuskasing to Hearst

"Soil investigating crews have been working in this area and, on completion of this investigation, estimates will be made. This work will be done shortly after the completion of the section from Cochrane to Smooth Rock Falls.

(d) New Highway, Matheson to Cochrane

"A contract has been advertised for clearing 16 miles of new road in this area. When this is done our engineering parties will be able to make their preliminary engineering surveys. This work is definitely progressing.



7. Bridge in Town of Tirmins, Township of Mountjoy

"In accordance with the Highway Improvement Act the only thing the Department can do is to subsidize the Town for 50% of the cost of renewing the bridge. Under this Act there is provision for the town or county assuming roads in a township, but no way for a township to assume roads in a town.

8. Road Work, Township of Calvert

"At the present time there are two ways that the Department of Highways can contribute to the cost of road work in the Township of Calvert. The first is under normal subsidies where the Department pays 60% of the cost to the Township; this is done by By-laws. The Department is ready to contribute in this case at any time. The second is by a Development Road Agreement where the Department pays 100% of the cost of doing this work. In the latter case it is necessary for the Township to make representation for a Development Road and an Agreement is signed between the Township and the Minister of Highways. Since there are limited funds for Development Road Agreements, it might be considerably longer doing it by this method.

9. Paving Roads, Township of Playfair

1. Entrance to Ramore

At the present time this has not been considered for paving but if mulching is being done in the vicinity of Raymore at some time in the future, consideration could



"then be given to surfacing this piece of road. The portion of road in question is very short and it would not be economical to move in a mulching crew to do this, but if a larger project is in operation in the vicinity, it could be considered at that time.

2. Road from Ramore to Holtyre

"Since this is a road giving access to the mine it possibly should be considered by the Committee studying Mine Access Roads.

10. Highway Grants, Town of Matheson

"Subsidies are paid to Municipalities on a percentage of the maintenance and construction costs to that municipality. The work that is done must be covered by a Municipal By-law for this proposed expenditure and it must be approved by the Department of Highways.

"If any new construction is done by the Municipality, in accordance with the above facts, they would get the subsidy on this and the same applies for subsidies for maintenance purposes.

"It is quite possible that some of the construction and maintenance does not come under a proper By-law or does not conform with the type of work that can be done under the Highway Improvement Act to be eligible for subsidy. "



MR. JANES: If it makes you feel better, we will move a vote of thanks to the Subcommittee. I think you did a good job.

HON. MR. MAPLEDORAM: It was difficult to explain to these municipal people that we could not listen to what they had to say, but we would try to work out something.

MR. BECKETT, Q.C.: That was good public relations.

MR. JANES: Yes, that is what it is.

THE CHAIRMAN: I think the secretary might read the minutes of the last meetings, and we can have them passed at the present time.

--- Whereupon the secretary read the minutes of the meeting of Wednesday, September 8th, 1954.

THE CHAIRMAN: Are the minutes correct?

MR. HERBERT: I move their adoption.

MR. COLLINGS: There is no "whitewashing" there.

HON. MR. PORTER: No, and nobody was "stymied".

MR. BECKETT, Q.C.: I second the motion, Mr. Chairman.

(Motion agreed to: Minutes adopted.)

--- Whereupon the secretary read the minutes of meeting of Tuesday, January 25th, 1955.

THE CHAIRMAN: With the addition of the names of those with whom the Committee had correspondence. Will somebody move the adoption?





MR.BECKETT, Q.C.: I so move, Mr. Chairman.

MR.HERBERT: I will second that motion.

(Motion agreed to; minutes adopted).

THE CHAIRMAN: With the permission of the Committee I wouldlike to have marked as Exhibit number 75 and Exhibit number 75(A) the letter of resignation from hon. George Doucette, and the letter of acceptance by the hon. Prime Minister (Mr. Frost).

EXHIBIT NUMBER 75: Letter of resignation by hon. George Doucette, as produced by the Chairman.

EXHIBIT NUMBER 75(A): Letter of acceptance, hon. Prime Minister to hon. Mr. Doucette as produced by the Chairman.

THE CHAIRMAN: Now, Mr. Grant, we are just about to adjourn. Will you tell us what you have set up before us.

MR. GRANT: What I would like to do this afternoon is to make a tour of the outside areas, because the driving time alone will be pretty close to one and one-half hours, and we are trying to arrange for a bus to leave about 2:00 o'clock, and it will probably take us until 5:00 o'clock to complete that portion of the tour.

THE CHAIRMAN: Where shall we meet?

MR. GRANT: I leave that to your convenience. Possibly the Board Room of the Department of Highways,



on the ground floor of the other building.

THE CHAIRMAN: It might be more convenient from a traffic point of view to meet at the main door of this building at 2:00 o'clock sharp.

I would like to say this; when we adjourn now, we will meet again to-morrow morning at 10:00 o'clock. At that time, if there is any further evidence to be given, that will be the time for it.

When we have disposed of any further evidence which may be put before the Committee, I propose to introduce, for the Committee's consideration, a draft report.

After that has been moved along and digested, we might be able to finish up anything regarding our inspections which requires to be done.

If there is no extensive amount of work for to-morrow, it might mean that we will be able to conclude our work on Friday, or possibly even to-morrow afternoon, depending on how the report is considered.

MR. COLLINGS: We could sit to-morrow night if it will be of any help to you.

MR. BECKETT, Q.C.: I have an important meeting to-morrow night.

THE CHAIRMAN: I take it the members are willing to sit on Friday, if necessary



That is our position, and I hope as many of you as can will be on hand for this tour of the Highways headquarters, which I think we should make.

If there is nothing further, we will adjourn now.

Oh, one other thing before we leave. This resolution from the Brant County Council. You remember it came up before. Suppose I refer this to our counsel and see if there is anything he can tell us to-morrow, and if he wishes to say a word regarding it then, he can do so.

The meeting stands adjourned.

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--- Whereupon at 11:32 o'clock a.m.  
the further proceedings of this  
Committee adjourned until Thursday,  
January 27th, 1955, at 10:00  
o'clock a.m.

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# **P R O C E E D I N G S**

---

**of the**

**Select Committee of the Ontario  
Legislature appointed to enquire  
into matters concerning certain  
Divisions of the Department of  
Highways.**

**MR. A. KELSO ROBERTS, Q.C., CHAIRMAN**

**PRESIDING.**

**MR. V. J. JOHNSON, SECRETARY.**

**Volume XXVIII**

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**TORONTO, ONTARIO,**

**THURSDAY, JANUARY 27, 1955**

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T W E N T Y - E I G H T H     D A Y

Toronto, Ontario,  
Thursday, January 27th, 1955,  
10:20 o'clock, a.m.

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The further proceedings of this Committee re-  
convened pursuant to adjournment.

All parties present (excepting Messrs. Oliver,  
Wren and Grummett).

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PRESENT:

Mr. A. Kelso Roberts, Q.C., (Chairman)

Hon. Dana Porter, Q.C.,

Hon. Mr. C. Mapledoram,

Messrs. Janes,

Collings,

Beckett, Q.C.,

Herbert,

Dent,

Mr. L. R. MacTavish, Q.C., Committee Counsel.

Mr. V. J. Johnson, Committee Secretary.

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APPEARANCES:

Mr. Harvey Cotnam, F.C.A., Provincial Auditor.



Mr. George Spence, Assistant Provincial Auditor,  
Mr. Hayward Hurell,  
Mr. Perry,  
Mr. Grant.

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THE CHAIRMAN: Gentlemen, we will come to order.  
I will ask the Secretary to read the minutes of the last  
meeting.

---Whereupon the minutes were read as requested.

THE CHAIRMAN: Thank you, Mr. Secretary. I think  
you have done very well to get the minutes up by ten  
o'clock the following morning.

With a quorum present, will someone move the  
adoption of the minutes?

HON. MR. MAPLEDORAM: I move the adoption of  
the minutes.

MR. HERBERT: I second the motion.

(Minutes agreed to; minutes adopted)

THE CHAIRMAN: I would like to say at the  
opening that there seems to have been some misconception  
on the part of certain members of the press -- I do not  
know how it got about -- but I will ask the Reporter to  
read the notes of my statement toward the close of the  
proceedings yesterday.

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---Whereupon the following statement was read by the Reporter:

"I would like to say this; when we adjourn tonight, we will meet again tomorrow morning at ten o'clock, and at that time, if there is any further evidence to be given, that will be the time for it.

"When we have disposed of any further evidence which may be put before the Committee, I propose to introduce, for the Committee's consideration, a draft report."

THE CHAIRMAN: I would like to say also, realizing that this Committee was set up by the hon. Premier (Mr. Frost) and the then hon. Minister of Highways (Mr. Doucett) for the purposes set out in the resolution, bringing it into being -- and very serious purposes; all of them -- I would say now that irrespective of what may have been done in the heat of argument and battle -- if there was a battle -- I would like to suggest the three gentlemen be invited to return to this Committee, that is, the three "bolters".

After all, there is a very definite responsibility on the part of Opposition members to Government, and when writing our report, if we are put under the double difficulty of trying to write a report, being all of the same political affiliations.

I am sure, Mr. Attorney-General, you and the



other members of the Committee will agree that we would prefer to have these members present, as far as the work in hand in writing our report is concerned.

I think every member agrees with that, and I would like it to be known that we invite these gentlemen to return.

HON. MR. PORTER: I never heard of an instance of a member withdrawing from a Committee, because the minority did not agree with the majority views.

MR. COLLINGS: On Special Committees which have met during the life of a Government, there have been minority reports, but I know of no case where those who might submit a minority report, got up and bolted, and left the Committee.

THE CHAIRMAN: My understanding, from reading the authorities, particularly "May on Parliamentary practice", which Great Britain follows, as well as ourselves -- I do not think there is any authority whatever for the filing of a minority report. There is only one report, and that is the one adopted by the Committee.

HON. MR. PORTER: And if the minority members disagree with that, they do not need to subscribe to it, but they can put forward their views in the Legislature, in whatever way they see fit. That has been the practice, I think. That does not shut anybody off. It





gives everybody an opportunity to air their views in any way they like.

THE CHAIRMAN: I think there is a saying which was used in the army which went:

"He who fights and runs away, lives to fight another day".

In this case, of course, they left without fighting.

HON. MR. PORTER: We have never objected to battles, in any of these committees.

THE CHAIRMAN: I might mention that I thought you might like to have Mr. Clarke with us a little later on this morning, in connection with any evidence he might wish to put before the Committee, or to give us any recommendations he may wish.

I think he should be available before we close up, and I imagine we will be closing the evidence before the Committee today.

I will now ask Mr. Hurell if he will please come forward.

H A Y W A R D     H U R E L L,

an employee of the Department of Highways, who, being called and duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q.     Mr. Hurell, you are an employee of the Department







of Highways?

A. That is right.

Q. And have been for how long?

A. Steady, since 1934.

Q. You have given evidence in certain preliminary hearings and trials in relation to the troubles which have occurred in the last year or so?

A. Yes, I most certainly have.

Q. In connection with certain construction companies

A. Yes.

Q. I appreciate your feelings and I know what you have said, and have read it very carefully. We have written into the record here, certain parts of your evidence, and it is not necessary for us to go over any of the evidence you gave at the hearings, unless you want to qualify it in any way, and I have asked you to come here if you so desired. You have not been subpoenaed to come?

A. No, that is right.

Q. Have you anything to add to your evidence which would help this Committee in arriving at its decisions and conclusions? We would be very glad to have you make any further statement you may wish to make.

A. No, Mr. Chairman. When this thing first broke, and the investigations began, I made statements, both



verbally and in writing, which I am sure this Committee -- or at least the Department -- has somewhere.

I also, as you have stated, subsequently appeared as a witness at the trial, and the preliminary hearing.

I have absolutely nothing further to say.

MR. COLLINGS: That satisfies me, Mr. Chairman.

BY THE CHAIRMAN:

Q. I realize you have been under a great deal of strain, but we are anxious to do our job, and do our duty.

I think it is clear to this Committee that there have been some irregular practices. These practices, if we can have anything to say about it, are not going to continue further, and I am sure they are not continuing.

It is our duty, as you will appreciate, to find out what we can, and to make whatever recommendations we think we should.

Have you anything to add which you think we should know, and do not know at the present time? If so, you might say so now.

---The witness retired.

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THE CHAIRMAN: Now, I believe Mr. Perry, of the Bonding Company, is here.





A L B E R T     E D W A R D     P E R R Y,

Vice-President and General Manager, for Canada, United States Fidelity and Guaranty Company, a witness being called, and having been duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q.        Now, Mr. Perry, one of your confreres came before the Committee, I think it was Mr. Tuttle --

A.        Mr. Tuttey.

Q.        -- and gave some information in regard to bonding contracts.

          However, the Leader of the Opposition -- and it is not very often I speak for him -- did ask that you come before this Committee, and you have been good enough to come here voluntarily?

A.        Yes.

Q.        He wanted to find out what position the Bonding Companies are taking on contract over-payments.

          With that general enquiry, which he left in his memorandum, I will leave it to you to tell us what you may think will be helpful to the Committee.

A.        Mr. Chairman and gentlemen; I cannot, of course, speak for the industry; I mean, the Bonding Companies as a whole. I know fairly well the thinking of some of them.

Q.        Perhaps before you go into that, we had better



get your position and qualifications. I omitted them.

A. I am Vice-President and General Manager for Canada, of the U.S. Fidelity and Guaranty Company, and the Fidelity Insurance Company of Canada.

BY MR. COLLINGS:

Q. Could we have it whether the United States Fidelity and Guaranty Company have had any bonds with the Department of Highways?

A. Very many.

BY THE CHAIRMAN:

Q. Will you just continue then, please?

A. I wish I could give a definite answer as to how the companies look upon these so-called "over-runs". I perhaps am a little hesitant -- and probably rightly so -- in dealing too much with that, because we have two cases at least which are under discussion.

I use the word "discussion", because it is a matter of discussion between ourselves and the Department.

But there seems to be no very general idea as to what constitutes an "over-run". We have never been able to find out. We have asked usually for the purpose of computing our final premiums, and have asked the Department at different times -- and I know that applies to other Bonding Companies, too -- and we learn these so-called "extensions" or "over-runs" -- call them what



you will -- come within the terms of the original contract.

I know of no instance where we received a definite reply to our question, and I think that is the crux of the whole situation.

BY MR. COLLINGS:

Q. May I ask this: if the original bond is for one-half million dollars, and there is an over-run of \$250,000, then do you charge an extra premium for that protection for yourself or for the Department, from one-half million dollars to \$750,000?

A. I may say this, that the question of payments or the collection of premiums, and the responsibility of the Bonding Companies to the Government bear no relation to each other. Whether a contractor pays his premium on the original bond, or whether he pays an extra premium on the over-runs, makes no difference. The obligations of the assuring company and the Government is still there.

BY MR. BECKETT, Q.C.:

Q. That would be for a definite amount?

A. Oh, yes.

Q. There is no liability to the Bonding Company over and above that amount?

. You are taking a contract for, say, one million dollars, and a bond for that amount

A. Yes.

Q. It is not a completion bond; it is a bond for



that amount of money?

A. That is so.

MR. COLLINGS: I would like to know more about that.

MR. BECKETT, Q.C.: That is the ordinary bond, that is, as far as the municipalities go, we have the completion bonds.

BY HON. MR. PORTER:

Q. I thought these were completion bonds. If a contractor failed to carry out a contract, you are under obligation to finish the contract?

A. Well, Mr. Porter, I think possibly the Bonding Company understands a "completion bond". Between the use of the words "completion bond" and "performance bonds" there is a fine line of demarcation.

What we understand by a "completion bond", is the completion of the project regardless of whether the contractor is paid or not.

The "performance bond" is one where the Bonding Company guarantees the performance of a contract, and the contract is protected, whether the contractor is paid for his work or not. If the contractor is not paid for his work, then the obligation fails.

BY MR. COLLINGS:

Q. What type of bonds have we with your Company?







A. Performance bonds, guarantying the performance of a contract.

Q. Not completion bonds?

A. No.

BY MR. JANES:

Q. Mr. Perry, suppose your bond was for \$1 million, and the contract was extended on to \$1½ million, and, say, one-half of the work was done, and paid for; would your bond still stand for the balance of the contract, that is, the bond for \$1 million?

A. I think there we have to define whether the added work comes within the scope of the original contract.

BY HON. MR. PORTER:

Q. The bond is **tied** up with the contract?

A. Exactly.

Q. Whatever the terms of the contract are, you obligate yourselves to \$1 million, and in Mr. Janes' case, that is the limit of your obligation?

A. Exactly.

Q. There may be some question in each case as what part of that million dollars you are really liable for?

A. Yes.

Q. This whole question is now being discussed with your Company and some of the other Companies by hon. Mr. McTague, and Mr. Bruce, who were retained to examine into



the terms of these contracts and the bonds to see whether some other form or protection might be desirable?

A. Exactly.

Q. Because apparently there are some border-line situations which might be open to dispute, under the present arrangement?

A. That is right.

Q. Do you agree with that?

A. That is quite right.

BY THE CHAIRMAN:

Q. Yesterday, we had the opportunity of attending at the opening of tenders for a bridge contract, and we saw the whole procedure. There was one thing which we noted -- and perhaps there is a reason for it -- and that is there was nobody representing the Bonding Companies attending at that time.

It seems to me the Companies would have a very vital and live interest, from the very beginning of these things.

A. Mr. Chairman, it was only a little while ago we knew we would be allowed into such openings. We were kept at arm's length. It had been rather a mixed attitude I found, on the part of the Department.

At one time we were given unit prices and everything, but it was closed down and we could not get a thing, and

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we could not get the details of competitive prices.

Of course, we had ways and means whereby we would go to the contractors whom we knew had tendered, and ask, "What is your price", but it was rather a laborious task, but now I think you will find somebody will be present at the openings.

THE CHAIRMAN: I am glad to hear that, because I think you are very much concerned in that.

HON. MR. PORTER: We are very anxious that the results of your conferences with hon. Mr. McTague and Mr. Bruce, will not only result in a satisfactory form for the Department and yourselves. They have worked it out so that there will be very little margin of allowance for disputes, and also that the general procedure will be satisfactory.

A. Yes, I am hopeful of that, too.

THE CHAIRMAN: We appreciate your coming here. It was the leader of the Opposition who wanted to talk to you, but he has not seen fit to appear, since he asked for it.

HON. MR. PORTER: He probably did not want to be here, because he did not know what questions to ask.

THE WITNESS: I have tried to be helpful.

THE CHAIRMAN: Thank you, sir.

--- The witness retired.



THE CHAIRMAN: Is Mr. Hamilton here?

MR. HAMILTON: Yes, Mr. Chairman.

WILLIAM ELDON RICHARD HAMILTON,

employed in the Department of the Provincial Auditor,  
appearing before the Committee, and who, having been  
duly sworn, testifies as follows:

BY THE CHAIRMAN:

Q. I think you acted as a sort of secretary when  
certain interviews took place with Mr. Bredin?

A. Yes.

Q. Perhaps you can identify the minutes you made  
of two interviews with Mr. Bredin, and I would like you to  
give us the record.

Before you do that, may I ask you this; you are  
an employee of the Accounting Department?

A. Of the Provincial Auditor.

Q. Of the Provincial Auditor's Department?

A. That is right.

Q. And in that capacity did you attend any inter-  
views when Mr. Bredin, whose name has been mentioned here  
several times, was questioned?

A. Yes, I did.

Q. Would you mind giving us the record - how many  
interviews did you have?





A. It was at least two.

Q. Would you mind giving us the record of those two interviews, and tell us who were present, and what you recorded.

A. The first was on February 2nd, 1954. There was present Mr. Cotnam, Mr. Spence, Mr. Fulton, Mr. McNab, and myself, and, of course, Mr. Bredin.

The second one was on February 4th, 1954, and present were Mr. Dubin, Mr. Spence, Mr. McNab, and Mr. Carratt, and myself, and, again, Mr. Bredin.

Q. Will you refer to the first interview first?  
What date was that?

A. February 2nd, 1954, at 10:00 o'clock a.m.

Q. Perhaps you had better tell us who Mr. Bredin is.

A. He was an estimate man in the Huntsville Division

Q. To identify him further, he was subsequently charged?

A. Yes.

Q. Together with the Bergmann Construction Company?

A. Yes.

Q. And at the trial the charge was withdrawn?

A. He was charged, and it was withdrawn.

MR. BECKETT, Q.C.: The Crown withdrew it.

BY THE CHAIRMAN;

Q. The Crown did not present any evidence?



A. That is right.

Q. Will you just tell us what your record shows?

A. My notes are here (indicating). I have not the questions put to the man.

Q. With that explanation, tell us exactly what you have there. It reads:

"Started with Department May 10, 1950.

Queen's University - 1 year completed.

Construction Engineer on job - Percy Willis

Bredin took over from Sam Both. - Both now deceased.

When Bredin took over the field note books were scattered all over, about 60 of them, couldn't find anything, had to re-copy the books.

Made up Progress Certificates each month.

Job was going about 3 years.

I re-drafted all cross-sections and re-wrote field notes.

My cross-sections I took are O.K.

Mr. Bredin did not take original cross-sections.

I destroyed all original field notes and cross-sections.

The original field notes and cross-sections were so bad that I had to make new ones.

Richardson \_\_\_\_\_ Division Engineer when job started.

Patterson - Now Division Engineer.

Cross-section rolls (15 to 20) all scattered about.

I tried to make a neat job when I re-drafted them.



"Borrow Pits - good gravel in them - some silt.

Very proud when I finalled the job. I thought I did a good job.

I burned the originals in a box stove (all alone) in the winter of 1952 before the final was turned in.

No one told me to burn the originals.

I do not doubt there is an 80' top in spots over the gorge.

Trnas-Canada Engineer - Bates.

Superintendent for Bergmann - Stephens.

I told Patterson I had re-written the notes. He was not too happy about it."

Q. Let us have that sentence again in regard to Mr. Both.

A. It says:

"When Bredin took over, the field note books were scattered all over, about 60 of them, couldn't find anything, had to re-copy the books."

Q. That was the first interview?

A. Yes.

Q. Then there was another interview?

A. On February 4th, 1954, and, as I say, those present were Mr. Dubin, Mr. Spence, Mr. McNab, Mr. Hamilton, Mr. Carratt, and myself, and, of course, Mr. Bredin.

1870-1871

1872-1873

1874-1875

1876-1877

1878-1879

1880-1881

1882-1883

1884-1885

1886-1887

Q. Will you give us what you have there for our records.

A. It is as follows:

" I guess I took over from Ron Kerr.

I never changed any field notes.

When I took over this job the records were in terrible condition. There were about 60 note books. Nobody told me to destroy the original field notes. I first worked under Sam Both, after he died, Percy Willis took over.

I told Willis in March that I destroyed the original notes.

With Department since 1950.

I was never instructed to make any changes or did I make any changes.

The books I saw were untidy but would not say they had been played around with.

Made Progress Certificates from December 1951 to December 1952.

Sandy Marshall helped me - Instrumentman.

Bert Udy - Worked on the job.

Bob Flavelle - Worked on the job.

? Quabble - Worked on the job.

After December 1952 the job was finished and I was sent to Novar.





"Polson and Frank Stephens worked for Bergmann Construction.

1st Certificate made small.

I re-wrote the field notes and plotted cross-sections starting in December 1952.

I re-wrote every book I thought needed re-writing.

I re-plotted all cross-sections.

Nobody with me when I burned the old records, field notes, etc.

There were about 50 books on the job when I took over. There were about 10 books made after I took over.

I thought the rock price was a good price.

Willis was not too happy when I told him I burned the old records.

Burned the records sometime in March of 1953.

As far as I knew the records I re-wrote were correct."

Then I have here three names, "Sandy" Marshall, Bert Udy, and Bo. Flavelle, bracketed, and I have this note:

"I believe these men checked some of my re-writing of the field books. They checked all my finalled work."

And then the last paragraph reads:

"I started to final the job in December, 1952, and finished March 31, 1953."



Q. That was on the Bergmann job?

A. That is right, in the Huntsville Division.

Q. Was it identified by a contract number?

A. Yes.

Q. What was it?

A. Contract 50-21, a contract with the Bergmann Construction Company Limited.

Q. And that was the contract which was before the Court, on which the Bergmann Company Limited pleaded guilty, and in relation to which Mr. Bredin pleaded not guilty to certain charges?

A. Yes.

Q. Is that right?

A. Yes.

THE CHAIRMAN: Thank you very much, Mr. Hamilton.

---The witness retired.

THE CHAIRMAN: I think we would like to have Mr. Clarke here before we close.

Mr. Cotnam, have you anything further at this point? I think this is pretty well the end of the evidence unless some member of the Committee has something to produce.

MR. COTNAM: No, I think I have nothing further to draw to the Committee's attention. I think I have pretty well completed all the information I can give.

I will be glad to answer any further questions.



THE CHAIRMAN: Thank you very much.

I will ask Mr. MacTavish, Q.C., if he will kindly deal with this Brant Township matter.

MR. MACTAVISH, Q.C.: This is a matter which might be considered to be a co-operating business.

Some time ago, you will recall the Brant County Council passed a resolution, asking to make certain submissions to this Committee. The Chairman referred the matter to Mr. Treadgold, who was then a legislative counsel - this was last May - and he wrote Mr. Roberts, as follows:

"Mr. A. Kelso Roberts, Esq., Q.C., Chairman,  
Select Committee on Department of Highways,  
320 Bay Street,  
TORONTO 1, Ontario.

"Re: Resolution of Brant County Council.

Dear Mr. Roberts:

"With regard to the request of the Brant County Council to make representations to your Committee with respect to the operation of The Highway Improvement Act, I felt that you would be interested in knowing what took place at the meeting of the Private Bills Committee of the Legislature during the recent session.

"The Town of Hespeler in 1951, 1952 and 1953, made application to the Legislature for a Private Act separating the town from the County of Waterloo. In



"1953, the Town of Paris made application for a Private Act separating the town from the County of Brant.

"In 1954, both of these towns made similar applications.

"All of the applications have been refused by the Private Bills Committee. In 1953, the suggestion was made that the matter of urban municipalities' contributions to county roads should be referred to the Ontario Provincial-Municipal Relations Committee. I do not know whether this was done.

" During the hearing of the applications of the Town of Paris and the Town of Hespeler by the Private Bills Committee this year, a suggestion was made by one of the Committee members that the matter could quite properly be dealt with by the Select Committee dealing with the Department of Highways. The Committee had not at that stage been set up but the Prime Minister had given notice of his motion to establish the Committee. I suggested to the Chairman of the Private Bills Committee that I was doubtful that the terms of reference of the Committee would include a matter such as this and some





"discussion took place, but in the end it appeared to be the feeling of the members of the Committee that the Select Committee could and would deal with the matter. In the result, the Bills were not reported but I am quite sure that the members of the Private Bills Committee and of the councils of the towns and counties concerned left the Private Bills Committee under the impression that the matter would be dealt with by your Committee. This would appear to be confirmed by the fact that Brant County Council has passed the resolution referred to above.

" I might point out that the problem arises entirely out of the provisions of The Highway Improvement Act in relation to the contributions of urban municipalities not separated from the county towards county roads and in relation to the contributions of cities and separated towns towards county roads that are designated as sub-urban roads.

" Yours very truly,  
(signed) D. M. Treadgold

" Municipal Legislative Counsel."

Those of you who were members of the Private Bills Committee, and have been in recent years, will be familiar with this whole matter.



That, gentlemen, is the matter. I think it is quite clear - at any rate, I would so submit - that the matter is not within the terms of reference of this Committee.

THE CHAIRMAN: That will be cold comfort to these people.

MR. JANES: I think that is substantially correct. I was on that Committee.

There was also a suggestion made by myself that there was a committee appointed to settle these matters, and I believe that committee is working. I think there will be some report from that committee at the coming Session.

THE CHAIRMAN: Will the secretary see that this gets to the hon. Minister of Highways, and he can do whatever he thinks is proper.

MR. BECKETT, Q.C.: I think at the time the Bills were being considered, there was an indication that the committee might have that power, but nobody said it would be considered by this Committee.

MR. COLLINGS: No, I think you are right.

THE CHAIRMAN: We will write a final letter to the correspondent, pointing out that counsel has advised that this is not within the scope of our authority, but the communication has been handed to the hon. Minister of Highways (Mr. Allan).



THE CHAIRMAN: I wonder, Mr. Grant, if you would see if you could contact Mr. Clarke, and ask him to be here.

MR. GRANT: I called the office of the hon. Prime Minister, and Mr. Clarke was with the hon. Premier, but he will be right down.

In the meantime, can you outline what you have in mind about finishing the tour started yesterday.

THE CHAIRMAN: What else is there for us to see?

MR. GRANT: The inspection of the set-up in the East Block; the issuance of motor licenses; the plans and engineering staff; the drafting office for traffic designs, and the records of plans which have been made for the Grants' Branch, the Personnel Branch, the Municipal Roads Branch, and the Bridge Branch, where certain operations are carried out.

THE CHAIRMAN: Would it be fairly similar, in so far as perspective is concerned with what we saw over on Jarvis Street?

MR. GRANT: Not quite as office-looking as that. There are not the large rooms with the multiplicity of desks. It is really broken down into smaller offices.

THE CHAIRMAN: I think by going yesterday - speaking for myself - I think all the members of the Committee got a better appreciation of the size and scope



of your work in this area. Possibly by going further, we could not add any more to that. We would be just walking through these Departments, and perhaps disturbing them to a certain extent, although I think the Committee would be glad to go if you think we should.

We appreciate the way you handled it yesterday, and we learned a great deal then.

MR. GRANT: I think it would be really more or less wasting your time.

HON. MR. PORTER: Yesterday we saw the set-up of the offices on Jarvis Street, and got some idea of the undertaking, and we saw the laboratory, which was quite an unusual feature, which I thought was extremely interesting.

I do not know that much is to be gained by going through other offices.

THE CHAIRMAN: We have a great deal of work to do in the next phase of our operations. So, Mr. Grant, if you feel we have a pretty fair appreciation from yesterday's tour, we will let it stay at that, if the members are satisfied.

MR. GRANT: Thank you very much, Mr. Chairman. Mr. Clarke has arrived.

THE CHAIRMAN: Yes, and as a Chief Engineer we feel that we should not close down our operations without





calling him back, in case he has any further observations, or anything he wanted to bring before this Committee.

W. A. C L A R K E,

Chief Engineer, Ontario Department of Highways, a witness previously heard, and now re-called, and who having been already sworn, continues his testimony as follows:

BY THE CHAIRMAN:

Q. Mr. Clarke, have you anything further you would like to bring before the Committee?

A. No. I think every feature, as far as I know, has been well covered. The reorganization is under way. I think the Department is doing a good job. We have had to do, you might say, twice as much work this year to produce the same volume, because of the extra controls, inspections and scrutinies.

The Engineers deserve a great deal of credit. They have in 90% of the cases, forsook their holidays; they worked long hours without any extra pay, and were very earnest and sincere in getting behind this thing as they want it run.

I think to-day we do have a very fine Department, and it will show great dividends in a short time.



There are many things which have to be ironed out. I do not completely agree with the entire J. D. Wood & Gordon report. Basically I think it is very good, and it is something I think the Department needed.

I believe one of the faults probably of the Department was that we had 1955 regulations and specifications, with a 1930 organization. By that I mean, not lack of engineering ability, but lack of bodies, numbers of people. And it was quite impossible for one or two men to completely supervise and inspect this whole problem.

But we have now reinforced head office by at least 10 of the best men of the province. We have young men out on the field who are being groomed to our outlook.

I think that, by and large, our Department will show great strides in the future.

I think that somewhere along the line, sir, the Engineers should be given a boost, and some acknowledgement they are not the type of people who do things which are wrong. To my mind, they are not brought up that way. They are a very fine group of men.

BY THE CHAIRMAN:

Q. Thank you, Mr. Clarke. There are just one or two things I would like to ask you about at this point, before we say au revoir.

One is the question in regard to bidding. The



unbalanced bid is something which I think has given concern to the Committee. In some other jurisdictions we find that when the estimates of a department are made up, the bidder is never given the unit prices, and the bidder has just the detailed estimates.

Where the unit prices are fixed, in addition to having the lowest bid by the lowest contractor, the lowest bidder must conform within certain limits - I think a 25% spread was indicated in New York State, under the unit prices. In other words, if you get below 25% below unit prices estimated by the Department, you could be disqualified on that ground.

I wonder if you have any comment on that type of thing as of assistance in getting where the lowest tender is a reality, because we know from what we have seen, that the lowest tender on a matter of estimates, could be turned out to be much higher than some of the others which were rejected, depending on the unit prices, and the amount of material involved.

A. Under our present system, that could not be possible, because regardless of that, the lowest tenderer gets the job.

I imagine, though, if pre-qualification of contractors came into effect that would be included.

I could, of course, point out a very glaring



example of an unbalanced bid, where the contractor bid a ridiculously low price on one item, gambling that there would be a very small quantity, and maybe, in his opinion, have a better price on what he thinks will be more.

I think that is about as far as I can go, under our present system.

BY HON. MR. PORTER:

Q. Why should he not do that, if he wants to?

A. He could, I suppose.

One point is, if through any circumstance, and our plans having been changed, the change could very well affect him, either up or down.

Q. But he is entitled to bid on the plans you have settled for? If you change your plans, does that not put it on a different basis entirely?

A. Not according to our contract. We can change the line or grade or quantities -

Q. And he is then "stuck"?

A. If he happens to have a good price, with a change upward, he is lucky. If it is the other way around, he would have sort of a tough time.

So, the unbalanced bid is rather a bad thing for the contractors who practice it.

BY MR. JAMES:

Q. He is just putting his judgment against yours if he does that?





A. That is right.

BY HON. MR. PORTER:

Q. It is pretty difficult to know where to draw the line?

A. Yes, it is. It would be very difficult.

BY MR. JAMES:

Q. Just another question there, which probably would clarify that a bit. In regard to these unbalanced bids, what has been your experience? Have the contractors got "stung", or how has it been working out? Was he right or wrong?

A. I would say from my knowledge and experience, it is about fifty-fifty. Perhaps one-third of them gain, and two-thirds have suffered.

BY MR. BECKETT, Q.C.:

Q. It is not the unit price which governs? It is the total? You say it is the lowest tender you accept?

A. Yes, made up of the various items at a unit price. The total bid price is the one which applies.

BY THE CHAIRMAN:

Q. Perhaps I did not make myself clear. If not, I want to come back to it, because it seems to me it is very important that your pre-engineering be good.

This is purely an assumption, but suppose your departmental officials got "scary" as a result of all these over-runs, or their estimate had been too low, and they



went the other way, and got too "generous", shall I say, in their estimates?

These bids could come in, as they did yesterday, well below your estimate, and the lowest bidder might have an unbalanced bid for one of the key items, and it might turn out, as a result of a number of things afterwards, that instead of you, in reality taking the lowest bid, if you took the figures and applied them to the other bidders, you would have much higher figures?

A. Oh, yes, that happens.

BY HON. MR. PORTER:

Q. What struck us was the fact that the company which put in the lowest bid was one of the most experienced contractors in the province.

A. That is right.

Q. I will not mention any names, because that is not for publication yet, but that is what struck me, that here was a man of long standing in the business, one who has had large contracts, not only on highways, but other projects, and he put in a bid very much lower than your estimate.

MR. COLLINGS: On the unit prices.

THE WITNESS: We examined that unit price this morning, and he was very much lower on one item.

BY HON. MR. PORTER:

Q. And higher on others?



A. No. He is only higher, I think, on one other one. He was lower all the way through the picture.

Q. If he were asked, he might have a perfectly good explanation of why he thinks he can do it? He may have idle machinery, which otherwise would be doing nothing.

A. On the type of jobs he has been doing, he has to drive a great many of these 14-inch steel bearing piles, the same size and length~~he~~ used in the subway, and he has the right machinery to do it.

There is no excuse, if he bids low, for him to come afterwards to the Department, and say that he lost money.

He has had the experience; he has been doing it for two years on the subway. He should know what he is doing.

THE CHAIRMAN: I would not want to leave the impression that these are operating in the current contracts. I am thinking of the general picture. But I think the 25% idea is one of the checks against the very point I am making to-day, that is, that the lowest bidder may not be the lowest priced man at all.

BY THE HON. MR. PORTER:

Q. It comes to this; it might put you on enquiry, and you might be justified in questioning some of his low



items, to satisfy yourselves that there is some justification for these lower prices.

A. Yes. I think it would be good practice to follow, as another way of checking the thing.

Q. It seems to me that if an experienced contractor chooses to put in a bid of that kind, is it not an advantage to the province that we should get the benefit of that?

MR. JANES: I was going to suggest, Mr. Attorney-General, that it would look to be like there is the possibility in a case like that, to question the contractor on that particular bid to save trouble later on.

HON. MR. PORTER: It might be quite different if it was an inexperienced company. A new company, which never had a contract before, could, quite obviously, more quickly get into a "jam". A great deal of judgment is required. You cannot have hard and fast rules.

THE WITNESS: I have spoken to them, and where we have a new contractor, where we have no knowledge of his background, we question him on his ability, and point out that he is quite low, but he said he was satisfied he could do the job, and do it on time.

Well, I do not know, even if we differed with his view, under the present system, if we could do anything about it.





BY MR. JAMES:

Q. You have given him a chance to check himself, to see if he had made a mistake?

A. Yes.

Q. How close do you get in your estimates?

A. For next year's work?

Q. No, in the contracts? How are you running? Usually about 15%?

A. I would say this - and I think Mr. Cotnam could check it - I have kept a running total for 1953 and 1954 contracts which have been pre-engineered well, and these contracts will be finally - I do not have my list here - but I think the over-all picture is within 15%. The odd job runs over, of course. Maybe we do get one which will run even up to 40%, but it is authorized, and well explained but 15% is what we are aiming at, and I think it is possible, given time and not too much pressure put upon us, to get work done that we can hold within 15%.

Of course, we will have the odd job where it will run over, for various reasons. There are unknown circumstances which do take place.

But I think we can keep it within 15%.

BY HON. MR. PORTER:

Q. I think the great misconception which has arisen in the minds of many people, arises from the nature of the



contract. People get the idea if "\$1,000,00" is mentioned, that is the maximum figure for doing the job -- \$1,000,000. and they think if there is an over-run, it is some extra payment which is the result of some irregularity, or some unauthorized "generosity" - shall we call it.--. They do not realize that the terms of the contract provide that it is based on a unit price, and that the actual units which have to be moved may turn out to be greater than estimated, and the contractor is entitled to have bid on that basis.

A. Yes, he gets paid for what he does.

Q. That is what leads to so much misconception.

You have a fixed estimate of \$1,000,000 on a contract, and the public look at what it cost in the end result, and compare it with the original estimate of \$1,000,000, whereas, in the end result, he may be properly paid for the work he did.

The real purpose of the estimate, I suppose, is, for budgeting? You have to have some idea as to what will be required.

A. There was some choice the Department had to make after the war. Surplus equipment was coming on the market from the airports, and all kinds of war effort. Either the Department had to stop work for at least one year - sixteen months I think we estimated at one time - to get the



pre-engineering done properly, or go ahead and do the best we could, and secure more engineers as we possibly could.

BY THE CHAIRMAN:

Q. You are over that now?

A. Yes.

Q. From now on, at least, we can expect your pre-engineering will be pretty accurate, and you are going to be, as we might say, allergic to over-runs - if you want to put it that way.

A. I will not recommend work unless I am assured that the engineering is adequate, and to be within that 15%, which is as close as any engineering organization can do. Otherwise, I will not recommend it.

One of my responsibilities is to see that the work is o.k., and that the men in the field are properly doing the work now.

I have a list right here (indicating), which I was going over with the Cabinet and hon. Mr. Frost.

The men in the field have this list, and they are working on it. They send in their profiles to us, and they are checked again in Head Office by another group of people, and after it is processed in that way, it is ready for tenders.

Of course, we run into emergency work which must be done, and we can carry this to a point which is



ridiculous. When Hurrican Hazel came along, we just had to go ahead and get the work done, and that was it.

BY MR. COLLINGS:

Q. When some of the contracts have been finalized within 15%, have they been sizeable contracts?

A. I would say not all of them, Mr. Collings. There are different types. There are small ones, and large ones, but most of them are small, because they are the easiest to finalize.

Q. The ones which run 40% -

A. That happens in the small ones, also, because of added extra work.

BY THE CHAIRMAN:

Q. There are a few other things I would like to ask you. I was looking at this form DE-5, and there are two points, I will give both of them to you, but perhaps you can deal with them separately.

First, would it not perhaps be helpful in the light of our experience, if somewhere in red ink was stamped on there the estimate of the Department.

A. That is the payment certificate?

Q. Yes.

A. Yes.

Q. So that every month you would have it right in front of you, and it would be easy to look back and see how it was related?





A. Yes, we have that.

In regard to these forms - if they are not in the hands of the printer now, they will be very shortly - will contain more signatures, that is, there will be more signatures added to them, that of, the Clerk Accountant at the Division Office, the Construction Engineer, the Division Engineer, myself, and the Deputy Minister.

The percentage of work completed will be on there, and also the original tender, so that you can see if a man has completed 50% of his work he should have spent nearly 50% of his money, but if he spends 80% of his money, and has only completed 50% of the work, there is something the matter, and then we start looking around.

Q. The other part about which I was going to ask you is this; is it feasible or helpful to have some representative of the contractor sign every one of these payment forms, before they come to you.

A. We have that on the list too. We would like to get in touch with the Ontario Road Builders. We do not like to impose things on the contractors which are not practicable, but we have proposed they sign these certificates, that they have done the work. We have that under way at the present time.

BY MR. COLLINGS:

Q. If there was a certain practice in the Department



leading up to the contract, that would all have been corrected.

A. Yes, oh my, yes - yes.

I am satisfied, sir, that we have the finest bunch of men ~~available~~, and there is nobody going to allow these things to come up - not one.

By and large, in my opinion, it did not happen except where it was found.

Of course, we are going to have the odd Engineer or Instrument man here and there, whom contractors if they are unscrupulous, will try to "get 'next to'", and we have to watch for that always. But these are not, by any means, wide-spread affairs, in my opinion.

HON. MR. PORTER: I would go so far as to say, from all the evidence I have heard in the last months, that in spite of these so-called "over-runs", in spite of irregularities in certain places, in spite of fraud in certain places, I think the people of this province have received value for the money spent on their roads.

I do not, myself, from what I have listened to, think that, on the whole, there were any unreasonable over-payments.

As a matter of fact, the Judge in the Standard Paving case pointed out that it is quite clear that the province got good roads, and that they did not pay too



much for them. He said that himself.

I think that is quite consistent with all the evidence we have heard here, that ~~the over-runs~~ in most cases - by far in the majority of cases - were absolutely regular, due to various causes which have been properly explained, and difficulties of one kind and another, and really did not go beyond the terms of the contract.

So to suggest that the people of this province have been defrauded of huge sums of money is not consistent with all the evidence which has come before us. I do not think there is any evidence to suggest that at all.

THE WITNESS: Well, I will say this; that those contracts which were in dispute, if we called them to-day, we will pay more money for them than we did when we called them previously. We would be paying more money.

HCN. MR. MAPLEDORAM: It boils down to this; the province got good value for the money which went into the roads, but they had no authority to spend it. The authority to spend the money was not given. That was the crux of the whole thing; it was illegal to do what they did.

HON. MR. PORTER: In those particular cases.

HCN. MR. MAPLEDORAM: Yes.

HON. MR. PORTER: I think perhaps the contractors would feel that they put in a low bid, that they might be able to make it up by what they regarded as generous



treatment in some cases. Now they know that is not so, and that they will be considered strictly in accordance with the terms of the contract, and if anybody puts in a low bid to-day, he cannot expect any treatment other than that to which he is entitled under the contract.

THE WITNESS: That is right, sir. But the thing of which I think we have to be careful is to see that in our methods of engineering and the general system, the pendulum does not swing the other way, and that we do not go too far to make it impracticable, and to make it a hardship; that we are not after our pound of flesh. We must be fair.

HON. MR. PORTER: That is right. The pendulum can swing too far, and we can have too much pre-engineering. It has to be within limits, and we have to use common sense and good judgment, and you have to have people whom you can trust.

THE WITNESS: We have had our specifications and general contracts checked by a reputable contractual lawyer, and the report on it is that it is "bullet proof", but there are inadequacies, and there are hardships, which may be worked, to which we are now alive, and want to correct.

So, if we are going to say to the contractors, "You must do it this way", we must be right ourselves, and





we must see that our specifications are fair and workable.

BY THE CHAIRMAN:

Q. You have a committee now to deal with that?

A. Yes.

Q. Of which Dr. Young is the head?

A. Yes.

Q. And we are trying to find out if there was definite personnel on that committee, and I think that was left somewhat in the air.

A. The personnel could be described in this way: perhaps I should have come to the rescue of Mr. Cotnam, as he was giving many engineering answers.

The personnel is really composed of Mr. Elson, myself, Dr. Young and Mr. Francis, who is a Construction Engineer, and who will be devoting all of his time to this very problem of payments.

So Dr. Young and Mr. Francis do all the fact finding. There is a tremendous amount of work of, say, the 1950 vintage, in which we have to go back over all the records, and come up with an answer.

Dr. Young does all that preparatory work. He discusses many of the features of the work with myself, which, of course, takes a great deal of time. Also from time to time - but not too much, but more so in the future - with Mr. Elson, as he has the time.

Now, when a contractor sends a claim in - we are



not referring all claims to Dr. Young. The current ones of 1953 and 1954, we are handling ourselves, as they are of a type which makes our contract. But these older claims, such as on the Atikoken highway, are referred to Dr. Young to do all this preliminary work.

Then he calls the contractor in, and any of his representatives who would care to come, legal or otherwise, or a superintendent - he calls the engineer who knows about the work - the division engineer, the construction engineer, or any head office personnel, or anybody he wants, and he listens to both sides, and hears their stories.

Then after all this fact finding is done, he makes a recommendation to me, and my authority is strictly on the specifications. I have no authority to go outside of that.

But Dr. Young is looking at the situation from a broader standpoint, concerning all the possible injustice let us say, which may have been worked in connection with a contract, such as changes and that sort of thing.

So he comes up with what I consider at the present time as very fair and very just recommendations. They are not always, I do not think, entirely satisfactory to the contractor, but they are without prejudice, and it does not prevent the contractor from taking legal steps if he so wishes.



It is Dr. Young's conviction - and mine, too - that if these are contracts let on at unit prices, we must deal with them on a cost basis.

For instance, if a contractor claims the Department has asked him to do work for which he was not paid, for various reasons, Dr. Young considers those things, and we are all trying to be very fair, on the side of the contractor, where there is any dispute.

That is a good way of doing it, I think, except I think we should have more people like Dr. Young to get these things cleaned up more quickly. Things are getting somewhat "bogged down".

BY THE CHAIRMAN:

Q. You mean one committee is not enough?

A. No. We cannot assign anymore personnel to this, because if we did, we could not get on with our work.

MR. JANES: I think Mr. Clarke has showed and is showing very good judgment.

BY HON. MR. MAPLEDORAM:

Q. What is Dr. Young's background? Did he work on the subway.

A. Dr. Young, in my opinion, is one of the best authorities on this work, not only in Ontario, but on this continent.

He is the ex-Dean of the Civil Engineering



Department of the University of Toronto. He has written text books on engineering law, and also on technical subjects.

He has been an arbitrator in many disputes with the C.P.R. and other companies, who have called him in, and he is a very fine man, of high standing and good judgment, and the blessings of the professional engineers go with him, too.

BY MR. JAMES:

Q. Mr. Clarke, you remember a complaint which I took to you which I had from a contractor, where a contract is called, and your engineers go out and examine the gravel pits, and the places where they may find material?

Are you protecting your contractor, particularly if he bids on a certain pit which you recommend, but it "peters out"?

A. Yes, we do. It goes as an extra; this is a net payment over-all.

In the past, what we have done is this; we have said, "Over here is a gravel pit" - or "several gravel pits" - "We think the material is all right, but we do not guarantee it".

So the contractor, with that information, bases his price for the hauling of this material.





During the course of the job, the pit runs out, or the material becomes inferior. For instance, he has bid his job based on a 5-mile haul.

We say, perhaps, "That material is no good; we are sorry, but you will have to go up 20 miles for your material". That may mean another \$1.00 per ton for the extra haulage. Under the present set-up, there is no way we could compensate him so we are endeavouring now to rectify that.

Q. I think that will be an improvement, because if a contractor is going to bid a unit price for that gravel, and he knows if it costs him more, he will be paid, he will bid a lower price, because he is sure of what he is doing.

A. There is another thing, and that is the hurry and desire to get a lot of work done, which was needed, and was very pressing, and the contractors in some cases did not have the time to examine the work properly themselves, and we did not have the time to prepare it. But the road had to be built, and the Department of Highways did the best it could under the circumstances.

But we are allowing more time now. We are preparing our work better. We have a whole list of work here by Divisions (indicating), which is being gone over right to-day in detail with higher authority, and the contractors



will have more time, and we are trying to call them so they will.

Under the old system, we may have had thirty jobs on the list, and the contractor had to bid eight jobs to get two. We do not think that is necessary. If he does not get a job out of the first five we call, he can try next week and the week following that. We think there should be a fair distribution of the work.

BY THE CHAIRMAN:

Q. On the question of the mileage in regard to certain contracts; have you any comment to make on that?

Is there such a thing as a yard stick that there should not be more than, say, six miles at any one time?

A. In the north, and in the isolated parts of the northern part of the province, it is not practicable to call less than 10 miles of grading. The contractor has to set up camps for the men, and that is quite a bit of overhead for small jobs.

In addition to that, if we made the jobs any shorter, it would mean we would have to have more engineers. One engineer can look after ten miles as well as five, when he gets going, so it seemed we should let them a little longer in the north.

In the south, where you are re-building existing highways, with a great deal of traffic, and considering the



paving and grading necessary to complete the job, we think it is better to let them a little smaller, and more of them to get them finished, and get the work "out of the hair" of the people who have to travel through.

Q. What would you say was the maximum for Southern Ontario? What is really a good yard stick?

A. On re-constructed highways, where this grading may take place, I would say about six or seven miles. Where you are doing a straight re-surfacing job - that is, simply paving - these jobs can be ten or fifteen miles.

Q. And up to how much in the north, did you say?

A. Ten miles would be about correct.

THE CHAIRMAN: Mr. Clarke, I think you have helped us here in winding up this part of our work, with your evidence, and I think I can speak for everybody when I say we appreciate your co-operation.

Perhaps Mr. Janes has something to say in that connection.

MR. JANES: I want to express my appreciation as one member of the Committee, and to thank you for the co-operation you and your Department have shown this Committee in every way.

We have never asked you for any information you did not furnish willingly, and you have always had somebody from your staff here to assist us in getting any information we required.



Personally, I am very grateful to you and your Department for the way you have co-operated, and for the assistance you have given us.

THE WITNESS: Thank you very much, gentlemen.

--- The witness retired.

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H U M P H R E Y   J O N E S,

employed in the Highway Property Section, Department of Highways, appeared before the Committee, but not being sworn, deposes and says as follows:

BY THE CHAIRMAN:

Q.        Mr. Jones, I understand you are with the Highway Property Section, the Department of Highways?

A.        Yes.

Q.        Have you any statement you would like to make, which you think might be helpful to the Committee?

A.        I have prepared a statement, and if you think it desirable, I will present it at this time.

Q.        I think perhaps that may be helpful to us. Will you let us have it?

A.        Yes, Mr. Chairman. The statement is as follows:

"Where the Minister desires to acquire land for the construction or widening of a highway, or for other purposes of the Department, under the power conferred by The Highway Improvement Act, the procedure as now





"laid down is initiated by the Planning Committee in consultation with the Director of Planning, to determine the location of the proposed highway to be so laid out or widened, as the case may be, or the location of site to be acquired for such other purposes of the Department. Preliminary surveys are customarily made to fix such locations and to determine the actual or approximate limits, areas and registered ownership of the lands to be acquired.

When the particular requirements of the Department have been ascertained a "Property Request" in duplicate is submitted to the Superintendent of Properties indicating the lands to be acquired from the respective owners.

In some instances a Plan and Description is deposited in the proper Registry Office, vesting the required lands in the Crown, in advance of the Property Request.

In other instances a Draft Plan or Study Plan, in duplicate, accompanies the Property Request for the guidance of the Property Agents in their negotiations with the owners.

On receipt of a Property Request the Superintendent of Properties has a file set up and directs



"the recording and indexing of each transaction and then refers the files to the respective supervising agent for the district in which the properties are respectively situated.

The Supervising Agent assigns these files among the Property Purchasing Agents on his staff. Those Agents inspect the properties, making estimates of the value of the land and any buildings to be acquired, and the extent to which the remaining lands of the respective owners, and the buildings, installations and operations thereon may be injuriously affected. The Agent then negotiates with the owners to obtain an option or offer in respect of the acquisition of the land and the compensation to be paid.

In many cases the Agent may find it necessary or expedient to take an option on the whole of the vendor's lands, or a substantial part thereof, where, for example, the highway requirements would divide a farm in a manner which would make it unsuitable, in whole or in part, for continued operation.

The options obtained by the Agents are submitted with a full report thereon to the Supervisor and thence, through the Superintendent of Properties,



to the Departmental Property Committee under the Deputy Minister. This Committee approves or rejects the options.

Notice of approval, expressly subject to proof of title, is sent to the vendor and the file is sent to the General or Special conveyancing Group, according to the value and importance of the particular transaction, for investigation of title and the proper distribution of compensation as among those having title to or interest in the property.

Where the registration of an expropriation plan has preceded the negotiation of the agreement the transaction can be carried through to payment with reasonable despatch, unless there are any complications in the title or conflicting claims to the compensation. It has been, in the past, however, and is occasionally still necessary, to negotiate agreements before the completion and registration of the expropriation plan. In these cases it is not usually possible to make an adequate search of title or to prepare an accurate description of the lands to be acquired, with the result that payment of the compensation is necessarily delayed.

To ensure the prompt payment of all current



"transactions a division has been made between such transactions and the "backlog" of unpaid agreements which had accumulated in previous years. This backlog is being separately handled and steadily overtaken without interfering with the steady progress and payment of incoming agreements. A careful check is constantly kept upon every current file to ensure its prompt completion.

An organization chart of the Property Branch is attached as a matter of record." (See Exhibit No. 78).

THE CHAIRMAN: That statement, I think, might be filed as Exhibit No. 78.

EXHIBIT NUMBER 78: Statement by Mr. Jones re acquisition of land, as offered and admitted in evidence, and made a part of this record.

THE CHAIRMAN: That, I think, concludes the evidence. I do not see anybody else here who may want to give voluntary evidence, unless some members of the press want to appear.

HON. MR. PORTER: I think we had better subpoena them.

MR. COTNAM: Mr. Chairman, may I say, before the Committee closes down, that what I have had to say before the Committee on several occasions has not always





been perhaps the most pleasant news.

But I do want to thank the Committee, individually and collectively, for the attention it has paid to what I have had to say. You have been patient, and have always shown a real interest, and I have done my best to answer any questions that you put before me to the best of my ability, and I do want to express my appreciation to all members of the Committee for the attention which the members have given to the matters which are brought before them. Thank you very much.

THE CHAIRMAN: Mr. Cotnam, we all appreciate your co-operation and the help you have given us in connection with the work we have had in hand.

Gentlemen, this bring us to the end of the evidence, unless some other member of the Committee has something which I have overlooked, and which he wishes to bring before us.

That being so, we will proceed now with our draft report, which I am very glad to say has been brought up to date as far as it has been possible for me to bring it up, and includes certain information we secured yesterday.

There will be, I think, quite a good deal to work on, and a great deal of factual information, which has been put together for the Committee to study. I am



sure there will be additions and subtractions from this report, and our efforts will now be to put it in satisfactory form.

The invitation stands to the members of the Opposition to return, and sit in with us on this, and if they desire to do so, we will be glad to have them. If they think they are doing their duty by staying away, that is their business, not ours.

I wish to thank the gentlemen of the press for their co-operation. By and large they have been very fair. There have been occasions when we did not like everything they said, but that is to be expected in a Committee of this sort, but I think they have been very fair in the handling of their work.

Of course, they will retire while we are discussing our report, and I hope the next time we see them will be when the report is tabled in the House, as far as this Committee is concerned.

HON. MR. PORTER: I never look to the press for things I like. I am accustomed to taking the good with the bad.

THE CHAIRMAN: Mr. Wright, do you want to make any comment to the Committee? I understand you have a watching brief, but if you have anything you would like to say, we would be glad to hear from you.



MR. WRIGHT, Q.C.: Thank you very much, Mr. Chairman, but I have no comment, except to thank you, and through you, the members of the Committee, for the courtesy you have extended to me and to the hon. Minister of Public Works (Mr. Winters) during the course of your proceedings.

HON. MR. PORTER: We thought you might want to commend us on behalf of the Federal Government. However, perhaps you have no authority to do that.

MR. WRIGHT, Q.C.: The press is gone, so that is a suggestion. Thank you very much.

THE CHAIRMAN: We will now move into a private session.

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--- Whereupon, at twelve o'clock noon, the further proceedings of this Committee adjourned until this afternoon at three of the clock.

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